

operations commence, to be secured to Government on terms to be laid down in the Agreement. This seems the simplest mode of providing for possible failure of the Company to carry out their works to completion.

9th.—That the Tramway Company carry Government Mails, Troops, and Stores at fixed maximum rates, and on terms to be specified in the Agreement for construction.

With regard to any promise of protection from competition, I am directed to observe that, in the opinion of the Governor in Council, there can be no practical necessity for any such promise to secure the just rights of the Company, as long as the Company do their duty by the public. In such case it would be the interest, as well as the duty of Government, not to give its active aid to any competition.

Government will have contributed largely to the expense of the line, and will be at least as much interested as the Shareholders in its success. The Shareholders will have, in the amount of the Government contribution to their undertaking, the best possible guarantee against any want of consideration on the part of Government in encouraging rival schemes.

If, on the other hand, the Company give the public just cause of complaint by delay in completing their works; by exacting unreasonably high fares; or otherwise performing the service of the line badly, the Company cannot expect to be aided by Government in keeping a monopoly of the line.

Against competition from parties entering the field at their own cost, and asking no aid from Government, it is out of the power of Government to promise any protection, however devoid of any apparent good reason such competition may be.

Moreover, it will, in a great number of cases, be quite impossible to define what is competition within the meaning intended by the Company. It need not, of necessity, be along the same line, nor along any line between the same places. It will often be from an opposite direction; and indeed this will be the most formidable kind of competition, when the tract of country, the traffic of which is the subject of competition, lies between two independent lines of Railway, or between such a line and the coast, or a navigable river, or great road.

For all these reasons His Excellency in Council could not recommend the conclusion of any agreement which stipulated for protecting the line of a Tramway from competition, and he trusts the Shareholders of the Company will feel that if they secure the amount of aid they ask for from Government, their best security against competition will be an efficient performance of their duty to the public.

Should it be the wish of the Tramway Company to enter into negotiations for a specific agreement to construct the lines named in your letter, or any one of them, I am desired to request an early intimation of their wish to do so. For one of the lines (from Dharwar to Sadasewghur), other parties, as above intimated, have already made propositions to the Government here, and to the Secretary of State; and in the absence of any specific propositions from your Company, the Government could not defer the consideration of specific propositions regarding any of the lines from other parties, beyond such time as may be reasonably required by your Company to propose

specific terms for the execution of the works required.

In the event of specific propositions for a Tramway along the same, or nearly the same line, being received from more than one party, Government will hold itself at liberty to select whichever offer may appear most advantageous, but will not bind itself to accept the lowest, or any tender; nor to be in any way responsible for any expenses which may be incurred prior to the conclusion of a formal agreement.

Should any general legislation take place in the interim, relative to such works as the Company contemplate, any special agreement must of course be subject to the terms of such general legislation.

No. 3977.

Endorsed by Government of Bombay.

Forwarded for information to the Government of India.

From LIEUTENANT-COLONEL R. STRACHEY, R. E., Secretary to Government of India, Public Works Department, to Secretary to Government of Bombay, in the Railway Department,—(No. 2868, dated 29th July 1862.)

I AM instructed to acknowledge the receipt of the copy of your letter to the Agent of the Indian Tramway Company, stating the terms which the Government of Bombay was disposed to offer to that Company, and to inform you that His Excellency the Governor General in Council generally approves of the nature of those terms excepting the stipulation regarding the Mails, which, in His Excellency's opinion, should be carried free on all Indian Railways or Tramways.

2. I shall have the honor to forward shortly, for the information of the Government of Bombay, the exact terms settled between the Government of India and the Indian Branch Railway Company.

3. The Agent of the Tramway Company is at present at Calcutta, and in communication with the Government of India, and you will be duly informed of the reply given by His Excellency in Council to the Company's proposals.

From A. W. FORDE, Esq., Engineer and Agent, Indian Tramway Company Limited, to Secretary to Government of India, Public Works Department,—(dated 28th July 1862.)

As I have received the reply of the Bombay Government to our communication respecting the construction of Tramways in that Presidency, as also the reply of the Madras Government, of both of which I believe you have copies, I would feel obliged by your informing me what steps it is now necessary to take as regards further negotiations with the Government of India.

In the answer of the Bombay Government the terms of the concessions are prefaced by stating "that the actual conclusion of any agreement after the terms have been finally arranged would rest, according to the extent of the liability to be incurred, either with the Bombay Government, or with the Government of India, or Secretary of State in Council."

This of course equally applies to the reply of the Madras Government.

As I was in the Bombay Presidency at the time I was requested by the Directors to act as their Engineer and Agent, they conceived that it would save time and further reference, and materially assist the Government of India in their decision

were I first to obtain the views of the Local Governments. It was therefore under these circumstances and with that view that I communicated with the Local Governments on my way to Calcutta.

I now have the honor to enclose, for your information, copy of a letter received from the Secretary to the London Board, addressed to the Bombay Committee. You will see by this that the Directors purpose recommending their Proprietary to commence with a few short lines in each Presidency.

The three they have selected in the Bombay Presidency are feeders to the Bombay, Baroda, and Central India Railway, and which the Government were about to construct as metalled roads. His Highness the Guicowar of Baroda had agreed to contribute the amount required for the portion through his territory, but in agreeing to this he proposed that Tramways should be substituted for ordinary metalled roads.

In a letter received from Major Wallace, the Resident at Baroda, dated 21st April 1862, in answer to one I addressed to him on the subject of these Tramways, he states, "that in answer to a communication lately received from the Government of Bombay, His Highness the Guicowar has consented to co-operate in the construction of feeders to the Railway, and will give assistance in the manner which will appear most suitable to the Government."

I presume therefore that all that remains to be done is to obtain the sanction of the Government of India to the terms named by the Governments of Bombay and Madras.

In the latter Presidency no lines have yet been determined on; but as the line from Arcunum junction, on the Madras Railway, to Conjeveram, a distance of about twenty-two miles, is under the favorable consideration of the Madras Committee, I do not think I should be outstepping my instructions in asking the Government of India to include that line in their sanction, and on the general terms named by the Madras Government.

From M. R. SCOTT, Esq., Secretary, London Board, to the Committee at Bombay of the Indian Tramway Company Limited,—(dated 18th June 1862.)

I AM desired by the Directors of the "Indian Tramway Company Limited" to state, with special reference to that portion of the Prospectus (Clause 6, page 2,) which refers to the construction of the several lines which may be approved and selected from among those shown upon the Company's Map, that the Directors do not ask for concessions for all the lines suggested; but that, relying for future further concessions upon the satisfactory manner in which the Company shall have executed the first lines, they would suggest two or three short lines being undertaken simultaneously in each of the Presidencies.

In respect to that of Bombay they would be prepared to recommend to their Proprietary the construction, in the first instance, of the following lines, as possessing the advantages of being speedily and economically constructed, and as being, according to the best authorities, highly remunerative—

- | | | |
|------------------------|-----|-----------|
| 1. Palej to Tumbooseer | ... | 20 miles. |
| 2. Neriad to Dakore | ... | 22 " |
| 3. Annand to Pitland | ... | 12 " |

In all, Total 54 miles.

The Directors request your Committee to bring these views before the Government of Bombay, and to communicate the decision and reply of the Government to Mr. Forde at Madras and at Calcutta per Telegram.

They also further request that your Committee will kindly obtain and transmit to them here, as speedily as possible, statistics of the population, produce, and traffic, the latter, both passengers and goods, fairly calculated, in reference to the three proposed lines before mentioned.

They desire at the same time to express their earnest acknowledgment for your prompt and efficient co-operation in this important matter, and they hope to commence active operations this cold season.

From LIEUTENANT-COLONEL R. STRACHY, B. F., Secretary to Government of India, Public Works Department, to Secretary to Government of Bombay, in the Railway Branch,—(No. 3342, dated 18th September 1862.)

HAVING reference to former correspondence noted in margin, on the subject

Circular No. 62, of the Indian Tramway Company, I am directed to forward, dated 28th June 1862. for the information of the Government of Bombay, copies of Government of Bombay's No. 3977. Government of India's No. 2868. of correspondence with the Government of Bengal, and of the conditions approved of by the Government of India for the construction of Branch Railways on certain roads in Bengal.

2. His Excellency the Governor General in Council observes that any agreements, in general conformity with those thus approved for Bengal, into which the Bombay Government may desire to enter for the construction of specific lines of Railway, will be sanctioned by the Government of India, unless some financial obstacle stands in the way.

3. The Agent of the Tramway Company has specially proposed to take up three lines of Branch Railway in connexion with the Bombay and Baroda line, viz., from Palej to Tumbooseer, about twenty miles; from Neriad to Dakore, about twenty-two miles; and from Annand to Pitland, about twelve miles. This proposal the Bombay Government will deal with at its discretion.

4. I am further to remark that it will be well to follow as far as practicable the form of the conditions proposed for the Bengal lines in all agreements entered into in Bombay, as uniformity in such matters is greatly conducive to convenience. Of course, the precise terms of special stipulations will be liable to vary.

5. I am to request particular attention to paragraphs 14 and 15 of my letter No. 3609 to the Government of Bengal as explaining the financial bearing of outlay for these objects, and the manner in which the Government of India desires that it may be dealt with.

From F. SCHILLER, Esq., Agent, Calcutta and South-Eastern Railway Company, to Officiating Consulting Engineer to Government of Bengal, Railway Department,—(No. 689, dated 15th April 1862.)

On the 26th February I had the honor of addressing you on the subject of the southern extension from Sonapoor via Barripoor, Mugrah, Joynuggur, Mittregunga, to Bistopoor. I then entertained strong hopes that the Government might be disposed to deviate in this case from the

policy latterly pursued, and extend to the undertaking the 5 per cent. guarantee, thereby enabling the Directors of this Company to raise the capital for constructing so useful and important a feeder to the main line.

2. I have, however, since come to the conviction that the Government cannot well entertain this proposal without modifying its general views with regard to the non-extension of Railway Guarantees, and rather than forego the advantage of so promising a line being carried out, I should feel disposed to make an effort for its construction without any guarantee on the part of the Government, provided that His Honor the Lieutenant-Governor will encourage the promoters by other liberal terms.

Of the capital required for this extension (*viz.* 90 lakhs of Rupees), I can see my way to getting one quarter subscribed in India, and this I think will sufficiently encourage capitalists at home to come forward with the balance required.

3. I therefore venture to ask His Honor the Lieutenant-Governor to support me by sanctioning the land in question on the following terms:—

I. That the land on which the line is to run, and the necessary ground for its construction, be given to the Company free of expense.

II. That in addition to the ground required for the proposed ten Stations, 100 beegahs of land be given at each Station for the purpose of creating a market in close proximity to the Railway.

III. That should the Government hereafter place any other Railway or Tramway Company upon terms more favorable than those mentioned above, the same advantage be extended to the line now proposed.

IV. That the Directors of the line may commence operations, and receive from the Government the land required, so soon as the quarter of of the proposed capital of twenty lakhs of Rupees is paid into the Government Treasury either at home or in Calcutta.

V. That the promoters of the line have the right to extend their line in such directions as may hereafter be considered necessary or desirable, and upon the same terms as those now specified.

VI. That the Company be at liberty to establish its own rates, without any interference on the part of the Government, and without reference to the Tariff existing on lines guaranteed by the Government; it being clearly the interest of the Company to fix their rates as low as possible, and with due regard to the amount of traffic thereby created.

VII. That after the expiry of ninety-nine years, it shall be optional with the Government to take over the line on payment of such a sum as may be considered its fair value.

Minute by the Lieutenant-Governor of Bengal, on the proposed extension of the Mutlah Railway in a southerly direction from Sonapoor.

MR. SCHILLER has submitted a proposal to construct a branch line or extension of the Mutlah Railway from Sonapoor to the southward. The contemplated branch would be about 22 miles in length, and would lead into a district productive of a fine description of rice. It will be convenient, in dealing with the proposal, to consider first, the line as regards its direction and general utility; and second, the terms on which the Government might reasonably be expected to

countenance the line, so far as its intrinsic merits make it deserving of support.

As to the line proposed, I am of opinion that some such extension is likely to be very advantageous to the southern part of the 24-Pergunnahs, and may be fairly remunerative if constructed with strict regard to economy. But I am not convinced that the precise line suggested by Mr. Schiller is the one that is best suited to the general requirements of the district in question. I should think that a line starting from Sonapoor, passing by Barripoor, and ending at Diamond Harbour, would be decidedly preferable. The length of this line would be only four miles greater than that proposed by Mr. Schiller; it would be more centrally situated as to the general area of the 24-Pergunnahs; and lastly, it would form a valuable means of communication to the anchorage at Diamond Harbour, and probably become the means of affording considerable relief to the Port of Calcutta, and of enabling the largest class of ships to discharge their cargo, in whole or in part, below the great difficulty of the Hooghly, the James and Mary Sand.

There can be, I imagine, no engineering difficulties in the way of such a line.

It is however possible that the anchorage of Kulpee might be considered a preferable point to touch on the Hooghly for such a branch. If it were, Mr. Schiller's line might be accepted so far as it goes; it would however require an extension of 12 miles. The distances from Calcutta would be to Diamond Harbour 36 miles; to Kulpee 44 miles. The distance from Kulpee by water to Diamond Harbour is 8 miles, and quite free from difficulty, so that as a point of arrival or departure for shipping, one would be almost as good as another, and unless there be some advantage in favor of the anchorage at Kulpee, of which I am ignorant, the saving of 8 miles of Railway would seem to turn the scale in favor of the shorter line.

The line then appears to recommend itself, with some such modification as that suggested above, as one that might reasonably be executed. I therefore proceed to consider the manner in which the Government might support the project.

Opposed as I have always been to the system of guaranteed Railways, I should not, under any circumstances, have been disposed to suggest that the Calcutta and South-Eastern Railway Company should be offered the option of executing this extension with a guarantee, under their original contract. Unless in the case of a truly main line of Trunk Railway, there appears to me no sort of ground for staking the credit of the State on the success of an undertaking the profits of which will all go to private individuals. Now, in no sense can this extension be looked on as such a trunk line; and on no consideration can I see that it has any claim to be carried out on a guarantee from the State.

Mr. Schiller, indeed, although he at first seemed to have looked for a guarantee, has now distinctly waived the point, and it may therefore be finally dropped.

The terms proposed by Mr. Schiller as a basis for an arrangement with the Government appear to me to be generally unobjectionable, though some modification in minor points would be essential.

It is in the first place obvious that the line not being a Government work, the land could only be taken up by the Government on proper authority conveyed by an Act of the Legislature. Such an Act is now before the Bengal Council, and when passed, it will at once become applicable to the present case. It follows, therefore, that the provisions of that Act must over-ride any stipulations that might now be made in behalf of the Government.

Now it is amongst other things provided in the draft Act that the Tariff of Tolls, &c., on all Railways, &c., carried out under the Act, shall be subject to regulation by the Government. The propriety of such a provision, as a concession to the public, in return for the aid afforded by the State in behalf of the public, to any individual speculators, can hardly be disputed. Nor is it to be lost sight of that the grant of the right to Mr. Schiller and his associates will in fact give him a monopoly of the Railway business in the 24-Pergunnahs for all time; and the public must be protected against the abuse of such a monopoly. But there seems no reason to anticipate any practical difficulty on the score of a Tariff. A high Tariff, except in the imagination of projectors, is a cause of failure not of success; and if this lesson has been taught any where in an unmistakable manner, it is to be found in the Traffic Returns of our Indian Railways.

The grant of a large plot of land at each Station, for the purpose of being converted into a market, seems uncalled for; at all events to the extent proposed. The Government would naturally be disposed to facilitate the promotion of the traffic, and such matters as this might safely be left to their own merits.

Neither do I think that the Government could engage to allow future extensions on any specific terms. They must, in the first place, as before remarked, be bound by the Law, whatever it be at the time; and next it is impossible to foresee what may occur in respect to such undertakings as these in the future, or what terms may hereafter be thought proper. But there is no practical doubt that if this line be executed, the proprietors of it will naturally have a stronger claim than other persons to carry out any further extension of Railways in this quarter.

I see no objection to the grant of the land free of cost, with the proviso offered by Mr. Schiller, that the Government should have the option of taking over the works at a valuation at the end of ninety-nine years.

I would further add that an alternative course, which would also appear to me unobjectionable, would be for the Government to construct the earthen-way and bridges at its own cost, and to lease this way to the Railway Company. The rent might be made nominal at first, and be subject to increase after a defined period, to the extent of say 5 per cent. on the cost of the earthen-way to Government, together with the ordinary Land Revenue; but only in such a way as should leave the profits of the Railway Company at a minimum of 10 per cent. Under such an arrangement, the Government would step in as ground Landlord at the end of the term of ninety-nine years, for which the lease might be given.

J. P. GRANT.

22nd April 1862.

From LIEUTENANT-COLONEL R. SPRACKEY, R. E., Secretary to Government of India, Public Works Department, to Officiating Joint Secretary to the Government of Bengal, in the Public Works Department, Railway Branch,—(No. 3632, dated the 18th September 1862.)

THE Minute* of Sir J. Grant, regarding the extension of the Calcutta and South-Eastern Railway to the southward, proposed by Mr. Schiller, and the accompanying papers, having been submitted to His Excellency the Governor General in Council, I am directed to inform you that the proposal seems one that the Government might receive favorably on terms not greatly differing from those asked by the projector.

2. The question of an extension of the guarantee of this Company may be disposed of at once by saying that His Excellency the Governor General in Council considers that aid in this form cannot, under any circumstances that can now be foreseen, be again properly given to any Indian Railway project. It is true that Mr. Schiller has dropped all claim to guarantee, but this explicit declaration of the views of the Government of India on this point may probably be made with advantage at the present time, when numerous schemes for such works have been started.

3. Having reference to the general remarks on the subject of the terms that the Government of India would be disposed to grant to Companies coming forward to construct Railways without guarantee, contained in my letter No. 3609 of this date, His Excellency in Council further makes the following specific comments on the points raised by Mr. Schiller's proposals.

4. Other matters being settled satisfactorily, this Government would make no difficulty as to the provision of the necessary land free of cost. (Proposal No. 1.)

5. The grant of 100 beegahs of land at each Station, for the purpose of creating a market close to the Railway, seems uncalled for. The Government of Bengal would doubtless take all necessary measures to facilitate the formation of suitable marts, when they were found to be required. It is not stated explicitly whether Mr. Schiller desired this land to be given to the Company; but it may be remarked that it would, under any circumstances, be questionable how far this would be politic. On the whole, this does not seem to be a condition that is likely to be insisted on. (Proposal No. 2.)

6. The Government could under no circumstances entertain the proposal to grant more favorable terms than those first agreed upon, in the event of any other persons hereafter receiving more favorable terms. Any agreement when made must be once for all, and cannot be subject to be re-opened. (Proposal No. 3.)

7. The deposit asked for by the Government as security for the due execution of the terms of their agreement by the Company may be fixed at 10 per cent. on the estimated cost of the line, as in the cases of the other Companies, and subject to like conditions as to re-payment and forfeiture. (Proposal No. 4.)

8. There would be no objection to future extensions should the Company desire them; but the Government would not guarantee the Company any particular terms at present, and the claims of the Company to execute any special line, in preference to any other Company proposing any other line with a like object, must be left to be dealt with

under the provisions of the general Act which it is contemplated to introduce. (Proposal No. 5.)

9. As regards the Tariff, the Government is disposed to insist upon some restriction in the way of a maximum, on every line of Railway in which the land is granted free of cost, or taken up under a compulsory process. The Government has a fair right to claim on behalf of the public such a return for the special powers exercised on behalf of the Company. The exact form in which the maximum shall be fixed may better be determined by future negotiation. (Proposal No. 6.)

10. But in dealing with this particular line a further consideration presents itself, which must be provided for. The Government of India is quite disposed to co-operate cordially with the Calcutta and South-Eastern Railway Company in giving the Mutlah project every chance of success; and considering the heavy stake the Government has in the undertaking in the shape of the guarantee, a motive of self-interest would alone demand such a line of conduct. It is however necessary to guard other interests, and to be careful that in granting this concession to Mr. Schiller, nothing is inadvertently done to deprive the commerce of Calcutta of any of the possible resources for its expansion or relief that now exist or may hereafter be suggested. And considering that the Calcutta Terminus of the Mutlah line must almost of necessity be the terminus of any line of Railway that might be eventually designed to communicate with any port on the lower part of the Hooghly, it is especially requisite to be careful not to enter into any engagement with the Calcutta and South-Eastern Railway Company, or any Company formed in connexion with them, that could lead to their having a practical power of closing the lower reaches of the Hooghly against Railway communication with Calcutta.

11. His Excellency in Council is disposed to think that this end might be effectively secured by binding the projectors of the present line, and of all other Companies that hereafter may be formed for carrying out Railways in this District, to charge a uniform mileage rate, to be regulated by that fixed from time to time for the Mutlah line under the contract between the Government and the Calcutta and South-Eastern Railway Company. This engagement, however, might be so made as not to be compulsory, unless on the demand of the Government; for a power to vary rates is often useful, and might be exercised fairly, and the only

object of the Government would be to interpose to prevent obstruction or unfair dealing. A stipulation should also be made to allow free running powers to other Companies, under such regulation as the Government might think necessary to protect the general interests of the community.

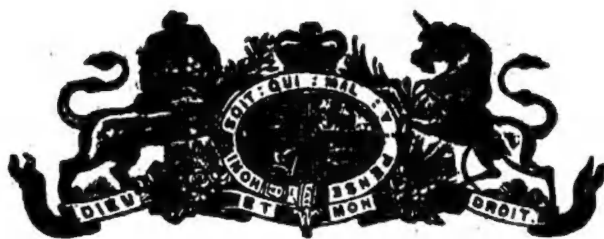
12. The power of purchase after a certain period has elapsed, is one that the Government of India is disposed to consider of great importance, as giving a complete means, not otherwise to be got, of removing all difficulties or misunderstandings in an equitable manner. The Government would also claim the usual right of a ground Landlord to re-enter on the land given free of cost, with all buildings and fixtures, at the end of the term of occupation, which may be taken at ninety-nine years; and a like power of re-entry would be proper in case of breach of contract on the part of the Company. (Proposal No. 7.)

13. The Government will also expect the usual concessions as to the free transport of Mails, and the reduced charges for Troops, &c., and Public Stores.

14. As observed by Sir J. Grant, any agreement will necessarily be subject to the general law.

15. His Excellency in Council is not disposed to interfere further than above explained in dealing with Mr. Schiller's proposal, nor does it seem necessary to advert at present more particularly to the idea of a Railway to Diamond Harbour, as suggested by Sir John Grant. At the same time the question as to the proper terminus of a Railway from Calcutta to the lower part of the Hooghly, whether it should be at Diamond Harbour or Kulpee, is one on which the opinion of persons of experience in the Hooghly might usefully be asked; and an examination of the creek at Diamond Harbour seems worth making, with reference to the possibility of its conversion into a Basin in the event of a Diamond Harbour Railway being ever constructed. His Excellency in Council thinks it probable that Diamond Harbour will be a more proper Hooghly Railway Terminus than Kulpee, and any conclusive evidence of this point would of course be important to Mr. Schiller, as it is observed that he has contemplated a possible extension of the line he has now proposed to Kulpee.

16. The Governor General in Council would not at present be inclined to entertain the proposal that the Government should execute the earth-works and masonry of the roadway of the line, and lease it to the Company.



SUPPLEMENT TO The Calcutta Gazette.

SATURDAY, NOVEMBER 15, 1862.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE will henceforward be published, weekly or twice a week, according to circumstances, containing such Official Papers and Information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

Non-Subscribers to the GAZETTE may receive the SUPPLEMENT separately on a payment of six Rupees per annum if delivered in Calcutta, or twelve Rupees if sent by Post.

No Official Orders or Notifications, the publication of which in the GAZETTE is required by Law, or which it has been customary to publish in the GAZETTE, will be included in the SUPPLEMENT. For such Orders and Notifications the body of the GAZETTE must be looked to as heretofore.

Government of India.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., C. 67.

THE Council met at Government House on Wednesday, the 12th November 1862.

PRESENT:

His Excellency the Viceroy and Governor-General of India, *presiding*.

His Honor the Lieutenant-Governor of Bengal.

Major-General the Hon'ble Sir R. Napier, K. C. B.

The Hon'ble H. B. Harington.

The Hon'ble W. Grey.

The Hon'ble H. Sumner Maine.

The Hon'ble C. J. Erskine.

The Hon'ble W. S. Fitzwilliam.

The Hon'ble D. Cowie.

The Hon'ble Rajah Deo Narain Sing Bahadoor.

The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.

The Hon'ble R. S. Ellis, C. B.

The Hon'ble A. A. Roberts, C. B.

The Hon'ble Mr. ROBERTS took the Oath of Allegiance and the Oath that he would faithfully discharge the duties of his office.

BILL TO AMEND THE CODE OF CIVIL PROCEDURE.

The Hon'ble Mr. HARINGTON moved for leave to bring in a Bill to amend the Code of Civil Procedure. He said that Section XXIII. of Act XXIII. of 1861 provided for appeals to the Sudder Court being heard by Courts consisting of at least two Judges, and Section 386 of the Code of Civil Procedure declared that the term Sudder Court should, when that Code was extended to any Non-Regulation Provinces, include the highest Civil Courts of

Appeal. But no provision was made for the case of such Courts consisting (as was almost invariably the case) of a single Judge, and a doubt had therefore arisen as to the power of such Courts to exercise the jurisdiction of the Sudder Court when that jurisdiction could only be exercised by a bench consisting of two or more Judges. The present Bill would remove that doubt. A similar provision had already been made in respect of the Code of Criminal Procedure. A Section had been added to the Bill to prevent the legality of decisions or orders already passed by the Judges of the highest Civil Courts of Appeal in the Non-Regulation Provinces being questioned on the ground that they had been passed by single Judges. The Motion was put and agreed to.

STRAITS' SETTLEMENT POLICE BILL.

The Hon'ble Mr. HARINGTON moved for leave to bring in a Bill to amend the law for regulating the Police in the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca. He said that this Bill had been prepared in consequence of a representation from the Governor of the Straits Settlement of the inconvenience there experienced from no law existing to authorize the enlistment of the Police Force for a stated period, and from the omission of the Straits Settlement from certain provisions of the Police Act (XLVIII. of 1860) which gave power over Coffee Houses, Boarding Houses, and the like. Those Sections, as originally drawn, had included the Straits Settlement, and he (Mr. Harington) had been unable to discover why that Settlement had subsequently been omitted. The Governor appeared to have stated good and sufficient reasons for the extension of those provisions to the Stations under his Government. With regard to the other point no such law as that asked for existed in the Presidency Towns, or, so far as he (Mr. Harington) was aware, in the United Kingdom. But the Governor had pointed out the peculiarities of the circumstances to be dealt with. In the

Presidency Towns the rate of pay was sufficient to induce men enlisting in the Police to remain, and, when any retired, there was no difficulty in filling their places. But in the Straits Settlement the Commissioners of Police complained of the constant changes that were taking place, and which rendered nugatory their efforts to keep the Police Force in an efficient state. The Governor noticed that in the Colony of Hong Kong it had been necessary to adopt a law requiring the Officers of Police to enlist for five years, and prohibiting retirement at an earlier period except in certain circumstances. The Governor considered that great advantage would result from a similar enactment in the Straits Settlement, and the first two Sections of the present Bill had been framed

with a view to a modification of the law in the direction recommended by the Governor.

The Motion was put and agreed to.

SUBORDINATE MEDICAL OFFICERS' WIDOWS' AND ORPHANS' BILL.

The Hon'ble the LIEUTENANT-GOVERNOR said that, as this Bill had not been circulated in its amended form, he would postpone his motion for its passing till the next Meeting.

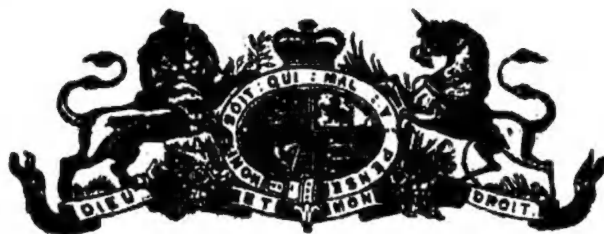
The Council adjourned.

M. WILKIE,

*Depy. Secy. to the Govt. of India,
Home Department.*

CALCUTTA,

The 12th November 1862. }



SUPPLEMENT TO The Calcutta Gazette.

SATURDAY, NOVEMBER 22, 1862.

OFFICIAL PAPERS.

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Government of India.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., C. 67.

The Council met at Government House on Wednesday, the 19th November 1862.

PRESENT:

His Excellency the Viceroy and Governor-General of India, *presiding*.

His Honor the Lieutenant-Governor of Bengal.

Major-General the Hon'ble Sir R. Napier, K. C. B.

The Hon'ble H. B. Harrington.

The Hon'ble W. Grey.

The Hon'ble H. Sumner Maine.

The Hon'ble C. J. Erskine.

The Hon'ble W. S. Fitzwilliam.

The Hon'ble D. Cowie.

The Hon'ble Rajah Des Narain Sing Bahadoor.

The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.

The Hon'ble R. S. Ellis, C. B.

The Hon'ble A. A. Roberts, C. B.

EMIGRATION (SEYCHELLES.)

The Hon'ble MR. HARRINGTON presented the Report of the Select Committee on the Bill relating to Emigration to the British Colonial Dependency of Seychelles.

CUSTOMS DUTIES.

The Hon'ble MR. HARRINGTON introduced the Bill to amend Act XI. of 1862 (to amend the Duties of Customs on Goods imported and exported by Sea) and moved that it be referred to a Select Committee, with instructions to report in two weeks.

The Motion was put and agreed to.

CIVIL PROCEDURE, &c., (BRITISH BURMAH)

The Hon'ble MR. HARRINGTON introduced the Bill to define the jurisdiction, and to regulate the Procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory, and moved that it be referred to a Select Committee, with instructions to report in six weeks. He stated that this Bill related only to British Burmah, and that it had already been seen and approved by the Chief Commissioner there. The period of six weeks therefore appeared to be sufficient for the Report of the Select Committee.

The Motion was put and agreed to.

APPEALS TO THE PRIVY COUNCIL (NON-REGULATION PROVINCES.)

The Hon'ble MR. HARRINGTON introduced the Bill to regulate the admission of Appeals to Her Majesty in Council from certain Judgments and Orders in Provinces not subject to the General Regulations, and moved that it be referred to a Select Committee, with instructions to report in six weeks. He said that this Bill introduced no new principle but merely extended to Non-Regulation Provinces the practice already in force in other parts of India, and the period he had named would therefore be sufficient for the consideration of the Bill.

The Motion was put and agreed to.

SUBORDINATE MEDICAL OFFICERS' WIDOW'S AND ORPHAN'S FUND.

The Hon'ble the LIEUT.-GOVERNOR of Bengal moved that the Report of the Select Committee on the Bill to provide for the dissolution of the Subordinate Medical Officers' Widows' and Orphans' Fund, and the distribution of the funds belonging thereto, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble the LIEUT.-GOVERNOR also moved that the Bill as settled by the Select Committee be passed.

The Motion was put and agreed to.

WHIPPING AND RELIGIOUS ENDOWMENTS BILLS.

The Hon'ble the **LIEUT.-GOVERNOR** of Bengal moved that the Hon'ble Mr. Roberts be added to the Select Committees on the Bill to authorize the Punishment of Whipping in certain cases, and the Bill to enable the Government to divest itself of the management of Religious Endowments.

The Motion was put and agreed to.

**RECOVERY OF RENTS (NORTH-WESTERN PROVINCES);
REGISTRATION OF ASSURANCES; PARTITION OF
ESTATES (NORTH-WESTERN PROVINCES);
AND EMPLOYMENT, &C., OF PEONS IN
CIVIL COURTS (NORTH-WESTERN
PROVINCES.)**

The Hon'ble **MR. HARRINGTON** moved that the Hon'ble Mr. Roberts be added to the Select Committees on the Bill to amend Act X. of 1859 (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal) so far as it relates to the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces; the Bill to provide for the Registration of Assurances; the Bill to Consolidate and Amend the Law relating to the partition of Estates paying Revenue to Government in the North-Western Provinces; and the Bill to Consolidate and Amend the Law relating to the employ-

ment and remuneration of Peons for the service and execution of Civil Process in the Courts of the North-Western Provinces of the Presidency of Fort William in Bengal.

The Motion was put and agreed to.

The following Select Committees were named:—

On the Bill to amend Act XI. of 1862 (to amend the Duties of Customs on Goods imported and exported by Sea)—The Hon'ble Messrs. Harrington, Cowie, Fitzwilliam, and Ellis.

On the Bill to define the jurisdiction, and to regulate the procedure of the Courts of Civil judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory—The Hon'ble Messrs. Harrington, Erskine, and Ellis.

On the Bill to regulate the admission of Appeals to Her Majesty in Council from certain Judgments and Orders in Provinces not subject to the General Regulations.—The Hon'ble Messrs. Harrington, Erskine, and Roberts.

The Council adjourned.

M. WYLIE,

Depy. Secy. to Govt. of India,

Home Department.

CALCUTTA,

The 19th November 1862.



SECOND APPENDIX TO The Calcutta Gazette.

SATURDAY, NOVEMBER 22, 1862.

LAND SALE NOTICES.

NOTICE is hereby given, under Section VI., Act XI. of 1859, that the undermentioned Estates, in Zillah Sylhet, will be put up to public and unreserved Sale at the Collector's Office of that District on Monday, the 8th December 1862, corresponding with 24th Agrahayon 1269 B. S., for arrears of Revenue and other demands, which, by the Regulations and Acts in force, are directed to be realized in the same manner as arrears of Revenue due on the 10th October 1862:—

Class I.—Permanently-settled Estates.

No. 17332.—Talook Roy Gourhurry Sing, Pergunnah Chytonnuggur; recorded proprietor, Roy Radha Gobind Sing; sudder jumma, Rupees 976-11-3.

No. 17783.—Talook Koorban Ally Choudhoree, Pergunnah Lunglah; recorded proprietors, Gobind Churn Dass and others; sudder jumma, Rupees 564-7-8.

No. 27501.—Talook Audum Rezah Zemindar, Pergunnah Joar Baneeachong; recorded proprietors, Seikh Latoo and others; sudder jumma, Rupees 683-15-2.

No. 27504.—Talook Assadoar Rezah Zemindar, Pergunnah Joar Baneeachong; recorded proprietor, Krishno Churn Dass; sudder jumma, Rupees 742-3.

No. 28509.—Talook Gobind Rajkrishno Chowdry, Pergunnah Beethungul; recorded proprietors, himself and others; sudder jumma, Rupees 880.

No. 31185.—Talook Adam Rezah Zemindar, Pergunnah Joar Baneeachong; recorded proprietors, himself and others; sudder jumma, Rupees 1,335-4-1.

No. 47031.—Talook Roy Gour Hurry Sing, Pergunnah Bhanoogatch; recorded proprietor, Roy Radagobind Sing; sudder jumma, Rupees 1,693-0-3.

No. 51783.—Talook Shaik Goolam Ally, Pergunnah Shath Gaw; recorded proprietors, himself and others; sudder jumma, Rupees 1,527-0-8.

No. 52270.—Talook Roy Gourhurry Sing, Pergunnah Chytonnuggur; recorded proprietor, Krishno Churn Dass; sudder jumma, Rupees 2,548-11-1.

No. 54721.—Talook Syud Mahomed Nazeer, Hissah Syud Mahomed Bateer, Pergunnah Turruff; recorded proprietor, Nobo Krishno Mozoomdar; sudder jumma, Rupees 3,164-5-4, of which Rupees 395-8-8 to be deducted on account of the jumma of two annas share paid in by Oochub Ram Pall, with whom a separate account has been made as per Section X., Act XI. of 1859, sudder jumma advertised for sale Rupees 2,768-12-8.

No. 54726.—Talook Syud Ahmed Ally Hissah, Syud Ahmed Rezah, Pergunnah Turruff; recorded proprietors, Pocroosh Ram and others; sudder jumma, Rupees 1,509.

No. 54729.—Talook Ditto, Hissah Syudkaem Rezah, Pergunnah Turruff; recorded proprietor, Joy Gobind Roy; sudder jumma, Rupees 1,966-14-11, of which Rupees 32-6-5 to be deducted on account of the jumma paid in by Hameeda Beebee and others, with whom a separate account has been made as per Section X., Act XI. of 1859; sudder jumma advertised for sale Rupees 1,934-8-6.

No. 54732.—Talook Syud Ahmad Ally, Hissah Kolim Rezah, Pergunnah Turruff; recorded proprietor, Joy Gobind Roy; sudder jumma, Rupees 718-12-10.

No. 54938.—Talook Shahah Jabool Abdee, Pergunnah Turruff; recorded proprietors, himself and others; sudder jumma, Rupees 579-1-1.

No. 56506.—Talook Syud Abool Hashun Hissah, Syud Asgur Hashun, Pergunnah Goda Hashunnaggar; recorded proprietors, Mahomed Ariff and others; sudder jumma, Rupees 658.

S. H. C. TAYLER,
Collector.

SYLHET COLLECTORATE,
The 10th November 1862. }



SUPPLEMENT TO The Calcutta Gazette.

WEDNESDAY, NOVEMBER 26, 1862.

OFFICIAL PAPERS.

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Government of India, Public Works Department.

Progress Report of Plate-laying in the Burrakur Extension Line.

EAST INDIAN RAILWAY.

BURRAKUR EXTENSION.

Progress Report of Plate-laying up to 31st August 1862.

STATIONS ON FIXED POINTS.	Total distance.	Linked in.	Completed.
Raneegunge to Searsole	9,900	} Laid temporarily for tipping Waggon, &c.
Searsole to Neemcha	3,000	
Neemcha to Nooneah	2,100	
Nooneah to Trunk Road	6,400	
Trunk Road to Setharampore	3,000	
Setharampore to Cooltee	6,000	
Cooltee to Burrakur	3,200	} L. fest = 11,200 yards.
	33,600	

Government of Bengal.

Botanic Gardens, Calcutta.

REPORT ON THE CONDITION OF THE ROYAL BOTANIC GARDENS, CALCUTTA, FROM THE 1ST APRIL 1861 TO THE 1ST APRIL 1862.

The Garden.—During the past year the various details of this Department have been zealously managed by the Head Gardener, Mr. Scott. Considerable improvements on the general plan of arrangement in the Garden have been effected. These consist principally in planting groups of several of the rare and peculiar families of plants after the manner of the Palmetum commenced by Dr. Falconer. A fine group of *Cycadææ* has been formed on this principle, while the *Coniferae* (Pine trees and their allies) scattered over the Garden have, so far as their size would admit of their removal, been collected on the west bank of the canal where they will form one of the most beautiful features of the Garden.

The success of this method of grouping living plants according to their botanical affinities has induced me to re-consider the entire subject of the arrangement of the Gardens. To enable me to explain the change it seems necessary to me to carry out, before the arrangement of the trees and plants in the Garden can be brought to a method that will hold good through all the future of the Garden, I must state briefly the plan followed since the formation of the Gardens. At the establishment of the Gardens in 1795 there was, so far as I can find, no definite plan on which the planting of trees or shrubs was conducted. Trees of striking appearance seem to have been placed where it was hoped they would prove most effective in the landscape when full grown. This idea seems to have guided the planting operations of Colonel Kyd, Dr. Buchanan Hamilton, and Dr. Roxburgh.

Dr. Wallich also followed generally the same plan with the modification of forming plantations of trees collected on his travels in different parts of India, such as the fine collection of trees from the tropical forests of Nepal, which still exists at the part of the Garden called the Nepal Mount. The fine avenues of Mahogany trees, *Cycadææ* and *Ravenala*, probably planted by Dr. Roxburgh, and for which the Gardens were famous, have now almost disappeared. The indiscriminate planting which has been going on ever since the formation of the Gardens has now ended in great confusion and overcrowding, while the usefulness of the Gardens as a scientific establishment has been greatly affected. This must evidently be the case when it is known that when a genus containing two species has these species removed often further than a mile from each other, thus rendering comparison of allied species almost hopeless.

Several attempts have formerly been made to remedy the evil I complain of, but the difficulty of undoing the work of more than fifty years has prevented any fixed plan of re-arrangement being acted on.

The shortest and speediest method would certainly be that intended by Dr. Griffith of cutting down all the trees in the Garden except the very rarest, and then re-planting the entire space on a definite plan first laid down on a Map.

This plan of Dr. Griffith's seems to be the natural explanation of the extensive changes he

made in the aspect of the Gardens, and for which he was so much blamed. Had he remained in charge of the Gardens a few years longer he would probably have succeeded in arranging the plants on a scientific plan. Dr. Falconer first shewed the great advantages of a scientific grouping of the live plants in the Garden by the formation of the Palmetum, and a general collection of *Monocotyledons* plants. All additions to the species of Palms now cultivated in the Botanic Gardens can at once be placed in their proper sites next their nearest botanical allies.

The want of any arrangement, however, in the other parts of the Garden has now reached such a point that it is almost impossible to carry on the work of planting out the annual additions to the species in cultivation, and whatever is planted adds only to the confusion already existing.

After many months' deliberation, and ten days spent in carefully examining the advantages and disadvantages of a scientific arrangement as strictly carried out in the Botanic Gardens of Buitenzorg in Java, certainly the most beautiful Botanic Garden in the world, I have decided on the following plan:—

I have resolved to give over nearly a third of the Botanic Gardens to a general arboretum, the site of which is the oldest part of the Garden, and where are found nearly all the magnificent trees planted by the earlier Superintendents of the Gardens. This will leave a large tract of land covered with low jungle and grass, and a small extent of Garden near the Conservatory, formerly the site of Dr. McClelland's Medicinal Plant Garden and examples of natural orders.

On this portion of the Garden the various natural orders of exogenous plants will be placed, while the ground in the vicinity of the Palmetum found by Dr. Falconer will afford ample space for the families of endogenous plants. Dr. Thompson has already placed the *Zingiberaceæ* and *Bamboos* near the Palms.

As the first step to the attainment of my object I have had a Map of the Garden prepared on a large scale, and, with the assistance of Mr. Scott, the general outlines of the plan were drawn on this Map.

The details of the arrangement were then placed on the Map in the open air simultaneously with a careful consideration of the capabilities of the ground and its suitability to the different species required to be planted. The method of arrangement followed was that adopted in my printed catalogue of the plants of the Botanic Gardens, but that system was not rigidly followed when any peculiarity in the landscape required a departure from it. The last stage of the proceeding was to fix poles five feet high on the site of every plant to be placed in the ground, and labels were attached to these poles. By these means a tolerably correct idea was formed of the effect of the planting proposed to be completed this year.

In fixing the imaginary limits of each order due consideration has been given to the number of species likely to be added to those of the order already in the Garden. Some orders, such as *Berberideæ*, could have their limits fixed at once, as no additional species can be expected, while others, such as *Terebinthaceæ*, have had extensive spaces appropriated both to the order and the genera. Orders of herbaceous or shrubby plants have been brought near the roads so as not to be hidden by large trees. Of large shrubs and trees

only two examples of each species have been planted. No large or fine trees have been cut down; but those occurring on the ground have been taken advantage of in the general arrangement, some of them serving as specimens of the arrangement, while others form good objects in the view.

In the case of orders composed of trees and climbing plants, such as the *Bignoniaceæ*, the climbers will be trained to east iron columns placed with as artistic effect as possible among the trees without reference to their botacial relations either of genera or species. This has been done in the case of the *Bignoniaceæ*, an order abounding in trees with large showy flowers, and in climbing plants of great beauty, and the effect is most pleasing. I have had the most hearty assistance from Mr. Scott in arranging the minutest details of the grouping of the plants. His long experience in the Botanic Gardens has enabled him to avoid pieces of ground unsuitable for the growth of certain plants, while his knowledge of landscape gardening has been most valuable.

Visitors to the Botanic Gardens have for long complained of the want of labels on the trees and shrubs. This want has to a certain extent been remedied. During the past year 400 labels have been attached to trees near the most frequented roads. These labels are of zinc, they are of two sizes, seven inches long by four broad, and six by three inches is the smallest size. The botanical, English or Native name, when known, and general native country of the plant, are painted in white on a black ground. The label is attached to the stem of the tree by four copper nails or by wire to one of the branches when they conceal the trunk.

Mr. Stacy, the European Overseer, having resigned the appointment last August, I obtained the permission of the Lieutenant-Governor to dispense with that appointment and to engage the services of a European Gardener instead on an increased salary. As yet I have not been able to engage a well-trained Gardener. I have had one to two applications, but the smallness of the salary offered (Rupees 150 a month) has been objected to.

The most important event in the history of the Botanic Gardens for the past year is the share the Gardens have had on the introduction of the Quinine yielding *Cinchona* into India. I was directed last September to proceed to Java via Singapore to procure plants and seed of the species of *Cinchona* cultivated by the Dutch, also to examine the method of cultivation adopted in that Island, and afterwards to proceed to Madras to report on the prospects of the success of the experiment of cultivating the *Cinchona* in the Neilgherries. The results of this mission are fully detailed in my Report to the Government of India. I derived great assistance from the varied resources of the Botanic Gardens in carrying out my operations connected with this important subject. The Native Gardeners that accompanied me were lent from the Botanic Gardens, as also were the wardian cases for the transport of the plants.

The *Cinchona* plants were brought to Calcutta from Java before they were taken to Madras. During the fourteen days they remained in Calcutta they were so carefully tended by Mr. Scott that, when they reached their destination at Ootacamund, only a mortality of 1 per cent. had occurred during the entire period spent on the

journey from Java to the Neilgherries. While I was in Calcutta, before proceeding to Madras, I received the sanction of Lord Canning to a proposal to commence the cultivation of *Cinchona* in the Mountains of the Bengal Presidency, and, as a nucleus of this cultivation, I was authorized to leave a few plants of *Cinchona Calisaya* and *C. Pahudiana* in the Botanic Gardens, pending arrangements for their final destination. This occurred in the beginning of December. While I was at Ootacamund I procured 204 plants belonging to four other species of *Cinchona* besides those I obtained in Java. Several of these plants were destroyed between the foot of the Neilgherries and the Railway Station by the upsetting of one of the carts on which the wardian cases were carried. The remainder of these plants reached the Botanic Gardens on the 13th January 1862. On my return from Madras I found that some seeds of *Cinchona Pahudiana* sown during my absence had germinated to the number of 549. In the Report of last year I mentioned the germination of seeds of species of *Cinchona* brought by me from England. About 120 of these seeds had grown by the end of May 1861, but during the hot period between that time and the middle of October many of the young plants died. On the approach of the cold weather all the remaining seedlings, more or less, recovered, while four young plants of the Red Bark (*Cinchona Succirubra*) grew rapidly. Of the *Cinchona* plants raised in the Botanic Gardens thirty-one plants remained on the 19th January 1862. The seeds I distributed in March 1861 germinated only at Ootacamund and at Peradenia, the Botanic Garden of Ceylon. The following Table shows the number of plants collected in the Botanic Gardens, Calcutta, on the 19th January 1862, as the commencement of the experiment in Bengal:—

TABLE showing the number of each species of *Cinchona* in the Botanic Gardens, Calcutta, on the 19th January 1862.

	From Ootacamund.	Raised in Botanic Gardens, Calcutta.	From Java.	Total.
<i>C. Succirubra</i> ...	87	4	...	91
<i>C. Calisaya</i> ...	...	...	6	6
<i>C. Nitida</i> ...	56	11	...	67
<i>C. Micrantha</i> ...	43	13	...	56
<i>C. Peruviana</i> ...	4	1	...	5
<i>C. Pahudiana</i> ...	...	...	59	59
<i>C. Species ignot</i> ...	3	2	...	5

Grand Total of *Cinchona* plants in the Botanic Gardens, Calcutta, on 19th February 1862, ... 289

On my return to Calcutta from Madras I received permission to commence the cultivation of the *Cinchona* near Darjeeling. I was, however, not able to leave Calcutta until the 25th March, being detained by my duties as Professor of Botany at the Medical College.

During this time the *Cinchona* plants suffered considerably, and a few died, in all 34.

I engaged the services of Mr. T. Stubbs, a European Gardener in charge of the cultivation,

and on the 25th March I sent him to Darjeeling in charge of the following number of plants :—

Number and species of Plants of Cinchona sent from the Botanic Gardens, Calcutta, to Darjeeling, on the 25th March 1862, in thirteen wardian cases.

Names of Species.	Number of Species.
<i>C. Succirubra</i>	84
<i>C. Calisaya</i>	5
<i>C. Nitida</i>	56
<i>C. Micrantha</i>	42
<i>C. Peruviana</i>	2
<i>C. Pahudiana</i>	54
Seedlings of ditto	548
Species ignot	8
Grand Total of species sent to Darjeeling	797

Encouraged by the successful keeping of so many plants of *Cinchona* in the climate of Calcutta for so many months, I was induced to test the effects of the climate on some of the species by a more prolonged trial. With this intention I left two well grown plants of *C. Succirubra* and four of *C. Pahudiana* in the Botanic Gardens of Calcutta, and I gave directions that they should receive no more than the ordinary care bestowed on the other plants in the Garden. Besides these plants I was obliged to leave fourteen cuttings of *C. Succirubra*, three of *C. Nitida*, and one of *C. Micrantha* in the propagating beds of the Botanic Gardens.

The thirteen wardian cases containing *Cinchona* plants were taken by Railway to Sahebgunge, from whence, after a delay of two days, they were removed to Caragolah Ghaut in the small Steamer. On the 29th March the plants were transported by coolies to Purneah, but though the distance is only twenty-four miles, the difficulties attending the moving of such heavy cases were so great that several of them were nearly forty-eight hours in arriving at Purneah, and they all suffered much from exposure to the sun. On the 1st April the cases were still detained at Purneah for want of carriage.

Garden Roads and Buildings.—The roads and footpaths are generally in good order, with the exception of two short lines, the repairs of which it has been quite impossible to complete. The material for repairing them has been purchased, and no unavoidable delay will take place in rendering them passable at all seasons.

I have found it necessary to enforce the Rules of the Garden concerning the non-admission of carriages and horses. Great damage has been done to the roads from the great number of carriages and riding horses brought into the Garden by visitors from Howrah.

The Rules of the Garden strictly prohibit any such practice, and, besides, the roads were made only for pedestrians, and they could not be made capable of withstanding the constant passage of carriages and horses without a large expenditure of money as well as time. An important line of road leading to the Gardens has been projected, by which visitors from Howrah will avoid the present circuitous and bad route they are forced to take. This road will enter the Garden at the eastern extremity, where it will join a line of roads in the Garden suitable for carriages as far as the bridges over the Canal. This will give the public a pleasant drive in the Gardens for half a mile along the river bank. The cast iron Ghaut, referred to in my last Report, has been completed.

It is a great boon to visitors from Calcutta, as it affords a dry and secure landing place at all states of the tide.

Distribution of Plants and Seeds.—This Department of the Garden has so far as possible been confined to a system of exchange with scientific establishments and contributors. Numerous applications for seeds and ornamental plants have been received from residents of Calcutta, but, in accordance with the orders of Government, all such applications have been refused.

All plants that could be spared from the Botanic Gardens can now easily be procured from the numerous Native nursery men of Calcutta, or from the Agri-Horticultural Society.

The usual supplies of English and Native vegetable seeds were sent to all European Regiments indenting for them within the fixed time.

Wardian cases, containing on an average twenty-five plants each, have been sent to the following Botanic Gardens and private individuals :—

To the Royal Gardens, Kew	...	2	Cases
Jardin des Plantes, Paris	...	2	"
Botanic Garden, Mauritius	...	1	"
Ditto ditto, Peradenia, Ceylon	...	2	"
Ditto ditto, Melbourne	...	2	"
Ditto ditto, Buitenzorg, Java	...	2	"
Ditto ditto, Trinidad	...	2	"
Superintendent of Teak Forests, Rangoon	...	1	"
Assistant Political Agent, Aden	...	1	"
Commissioner of Nuddea	...	2	"
Ditto of Berhampore	...	2	"
Ditto of Bhaugulpore	...	2	"
Captain Elphinstone, Jullundhur	...	2	"
Attorney General, Trinidad	...	1	"
Mrs. Harrison, Singapore	...	2	"

Total number of wardian cases dispatched 26

The gratuitous distribution of plants to the residents of Calcutta was reduced to 549 species; sixty packets of seeds, containing each from 50 to 100 species, were exchanged with different Botanic Gardens. Among the Botanic Gardens receiving these seeds may be mentioned the Gardens of Kew, Paris, Montpellier, Florence, Malta, Algiers, Trinidad, Mauritius, Melbourne, Sydney, Buitenzorg, Peradenia, Ootacamund, Saharanpore, &c.

Many valuable and interesting plants and seeds have been received in exchange for the plants from the Calcutta Botanic Gardens. During the past year twenty-four cases have been received. The number of new species introduced into the Gardens by this means probably exceeds 400; thirty packets of seed have also been received.

The Herbarium.—It is with great satisfaction that I have to record an annual grant of Rupees 600 (£60) for the support of the valuable Herbarium attached to the Botanic Gardens. This sum will enable the Superintendent to defray the expenses of maintaining the Herbarium in an efficient condition. The collection of dried plants is of such an extent that several years will still elapse before the arrangement of the Herbarium can be completed. The work of gluing down the specimens on sheets of paper, in accordance with the plan followed in all English Herbaria, has been carried on during the past year under my inspection by Natives whom I have trained to the work. Simultaneously with this a portion of the Herbarium has been similarly prepared in England.

I have been enabled to accomplish this through the kindness of Sir William Hooker, who allowed me to secure the services of the men employed at the Royal Herbarium at Kew. These men were allowed to glue down the plants sent to England from Calcutta for this purpose. Mr. Black, the Curator of the Royal Herbarium, prepared the specimens for the process of mounting them on paper, and the labor of gluing down was done by the men at their leisure hours. I have thus had a much larger number of specimens rendered fit for consultation than could possibly be accomplished in Calcutta. All the unnamed and obscure species have also been compared with the specimens in the Herbarium at Kew before being returned to Calcutta.

Through the kindness of Professor Asa Gray, of Cambridge University, United States, I have procured a supply of Manila Hemp paper for the envelopes of the genera. This paper is the strongest and most durable that can be procured, and is used in the Royal Herbarium of Kew as well as in that of the Dublin University.

The following additions of dried plants have been received since last report:—Two instalments of Dr. Hooker and Thomson's Indian Herbarium. A small collection from Dr. Mueller, of Melbourne Botanic Gardens. Mr. Thwaites, Director of the Peradenia Botanic Gardens, has also presented a collection of plants from his valuable Herbarium of Ceylon plants. An interesting packet of North American plants, collected by Dr. Hector, of Captain Palliser's Expedition to the Rocky Mountains, was presented by Sir William Hooker. During my mission to Java I made extensive collections of plants on the Mountains of that Island and also in Singapore. A valuable collection of dried specimens of the plants cultivated in the Botanic Garden of Buitenzorg was prepared for the Calcutta Herbarium by M. Teysmann, the Director of that Garden.

The Library.—Rupees 600 a year have also been sanctioned for the support and preservation of the extensive Library of Botanical Works attached to the Botanic Gardens.

This sum will allow of the purchase of the principal Botanical Periodicals and of the most important new Works on Botany. For some years, however, most of this annual grant will be devoted to the filling up of the many blanks in the more valuable Works already in the Library. Rupees 280 have been expended this year on the purchase of some volumes of the Botanical Magazine which were wanting to complete the set of that publication.

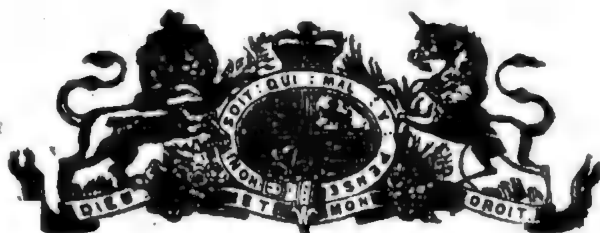
The following Botanical Periodicals and Publications of Scientific Societies will be received regularly:—

Curtis' Botanical Magazine.
Annales des Sciences Naturelles.
The Natural History Review.
Annals and Magazine of Natural History.
Quarterly Journal of Microscopical Science.
Gardener's Chronicle and Agricultural Gazette.
Linnaea.
Botanische Zeitung.
Bonplandia.
Proceedings of the Linnæan Society.
Transaction of Ditto Ditto.
Journal of the Asiatic Society of Calcutta.
Journal of the Agri-Horticultural Society of India.

Sixteen pages of the new Catalogue of the plants cultivated in the Botanical Gardens have been printed, and the remainder of the Work out to be finished in a few months.

An enumeration of the species of *Acanthaceæ* of the Continent of Africa and the adjacent Islands, with descriptions of new genera and species, has been contributed to the Journal of the proceedings of the Linnæan Society, and I am now engaged on a similar Work on the *Acanthaceæ* of East India. Two Artists have been employed in making Drawings of all the unfigured plants that have flowered in the Botanic Gardens during the entire year.

THOMAS ANDERSON, M. D.,
Offg. Superintendent.



SUPPLEMENT TO The Calcutta Gazette.

SATURDAY, NOVEMBER 20, 1862.

OFFICIAL PAPERS.

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Government of India.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., C. 67.

The Council met at Government House on Wednesday, the 26th November 1862.

PRESENT:

His Excellency the Viceroy and Governor-General of India, *presiding*.

His Honor the Lieutenant-Governor of Bengal.

Major-General the Hon'ble Sir R. Napier, K. C. B.

The Hon'ble H. B. Harington.

The Hon'ble H. Sumner Maine.

The Hon'ble C. J. Erskine.

The Hon'ble W. S. Fitzwilliam.

The Hon'ble D. Cowie.

The Hon'ble Rajah Deo Narain Sing Bahadoor.

The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.

The Hon'ble R. S. Ellis, C. B.

The Hon'ble A. A. Roberts, C. B.

ARKAREE REVENUE LAW AMENDMENT.

The Hon'ble MR. HARRINGTON moved for leave to bring in a Bill to amend Act XXI of 1856 (to consolidate and amend the Law relating to the Arkaree Revenue of Fort William in Bengal), and Act XXIII of 1860 (to amend the said Act XXI of 1856). He said that the object of this Bill was to place Spirits manufactured in this country, and not adapted to human consumption, on the same footing as similar Spirits under the Customs Duties Bill lately introduced. The Duty would be 10 per cent. *ad valorem*, instead of the high rate per gallon which was now charged. The Bill also provided against frauds on the Revenue.

The Motion was put and agreed to.

WORKS OF PUBLIC UTILITY BY PRIVATE PERSONS OR COMPANIES.

The Hon'ble MR. HARRINGTON introduced the Bill to provide for taking land for Works of Public Utility to be constructed by private Persons or Companies, and for regulating the construction and use of Works on land so taken, and moved that it be referred to a Select Committee. He stated that, in order to meet a difficulty which had been suggested by the Hon'ble Mr. Erskine, when leave was moved for to bring in this Bill, provision would be made for the Local Governments making bye-laws, not inconsistent with the general provisions of the Bill, for giving effect to it according to the peculiar circumstances of their Territories.

The Hon'ble MR. ERSKINE said that, since he had made his former remarks on this Bill, he had taken an opportunity of reading it, and he willingly conceded that the Bill bore marks of a desire to fetter local Officers by details, or to limit their powers. It was not his intention to oppose the Bill, for he felt, as all the Council must, sympathy with its object. There were reasons in favor of regulating the encouragement of public enterprises by a general Bill, providing a simple Code of Procedure, giving to the Works of Public Companies the character and rights of Public Works, and securing their dedication to public purposes. But there might be objections elsewhere, as in the Bengal Government, which had a Bill before the Committee of its Council, and in Bombay, where the Committee of the Council had already reported, and he should be glad, therefore, if the Local Governments had an opportunity to be heard. There were some Clauses of the Bill which were very important, and to which he might direct attention. In the first part of the Bill there were several Sections hardly fit for an enactment. They neither enlarged nor curtailed powers that already existed. It might be

desirable, for the benefit of persons at a distance, to make the Bill as complete as possible, but, if so, it would be desirable to add other provisions to it. Opinions might differ as to the extent to which the Bill should go. If lines of communication were sanctioned, it was necessary to provide for private interests, between the intervening points, giving way to the main object. But in the case of Jetties, Quays, and Gas Works, where it was not certain that the works might not as well be made in one place as another, there should be full inquiry, not only as between the Company and the public, but also as between the Company and individuals whose interests were affected. Section V provided that a preliminary Survey might be authorized on a preliminary statement only, and this would authorize persons to enter on lands with the privileges of public servants, whom, under the Penal Code, it was unlawful to resist, while the persons so authorized were not amenable to Government discipline. This was a very large power to be exercised by Local Governments (the Commissioners of Provinces for instance) in such cases as Surveys of Mines. Then Section IX authorized the Government, after three months, to declare a work provisionally registered. In other countries formidable processes had to be gone through to arrive at such a stage. He had no wish to embarrass promoters of public undertakings by technicalities, but here was no provision for inquiry into the rights of third parties, nor any provision for taking evidence. Yet the preliminary registration might be made final if the Companies chose. The Bill also authorized the Government to give land of its own, or land which it had purchased for the purpose; and the Companies were not to be liable for the value of such land unless made so under the Conditions imposed on them by Government.

Were all the heads of Local Governments to have this authority? He would not enter into the question how far this Council would feel at liberty thus to authorize grants of public property, but would ask if every Commissioner was to have the power contemplated. Section XXXIV raised the question whether Government were to determine what rights of way and other easements existed; but probably it was only intended that, where such rights existed, Government should have power to order in what manner they should be secured. The power of making bye-laws under Section XLI was larger than the powers granted under the Railway Act. But as the penalty only extended to 50 Rupees, it was doubtful if the sanction of the Governor-General in Council should be made necessary. That sanction, as provided in Section XLIV, however, appeared to be justly required. With reference to Section XLV, prohibiting alienations of the property of Companies, he doubted if it might not unnecessarily tie up their hands and interfere with their power of obtaining loans. These were some of the points which he thought required mature consideration:

The Hon'ble Rajah DINKAR RAO said that in his opinion if the land were a grant or hereditarily cultivated, the Government, in case the holder of it did not prefer to take the price in money, should give him, in exchange, besides the price of his building, if there were any, another piece of land of the value of that taken. To the owner of a house a site, if required, might be given in addition to the price of the building. Wells and buildings

for the convenience of travellers should be added to the works mentioned in Section II of this Bill. The Punch should be either three or five, as the case might be. A provision should also be made that the Officers of the Government should give their attention fully to the religious buildings.

The Hon'ble the ~~Lieutenant-Governor~~ said that a Bill for enabling Government to give its assistance to projects for making lines of communication had been introduced into the Bengal Council, and when its principle was considered, it was suggested that the measure might be extended to other undertakings. The Select Committee, however, to whom the Bill was referred, had found so much difficulty in the matter, that they were prepared, as he (the Lieutenant-Governor) understood, to report against the extension of the measure. There were, therefore, those who would doubt the expediency of so wide a measure as the present Bill. As, however, the subject had been taken up in this Council, the Bengal Council would not proceed with it. He agreed with what the Hon'ble Mr. Harington had stated in moving for leave to bring in this Bill, that it was not intended by Parliament that the Supreme Legislature here should, except under special circumstances, legislate on subjects within the competency of Local Legislatures. With reference to this Bill it was open to the objection that it vested, in all the Local Executive Governments, all the powers that in England could be exercised by Parliament alone. Without saying that Parliamentary control, and Select Committees of Parliament, provided the best arrangement possible, it was doubtful if we should go to the other extreme when the power we conferred was to be exercised by a single person without responsible advisers. It was well known that, even in Parliament, plausible projects were sanctioned, which unjustly invaded private rights, and some check should be provided against the same kind of thing here. It might be necessary that the head of the Local Government should be bound to submit the projects presented to him to some kind of Board or Committee of responsible advisers. For the rest he concurred generally in what had fallen from the Hon'ble Mr. Erskine.

The Hon'ble Mr. MAINE said that, although this Bill had been drawn by persons very conversant with the subject, some details might have to be re-considered, and it might be necessary to curtail, in some measure, Section II. As to the principle on which the Supreme Council should legislate, it had been correctly stated by the Hon'ble Mr. Harington that no subject should be taken up if it were within the competency of Local Legislatures, unless there were some strong and special reasons, and in this case all the Council appeared to be agreed that such reasons existed. The Works that were contemplated by the Bill would be executed chiefly by English Capital, and the knowledge in England of the Indian Administration was not great. If this matter were left to Local Legislatures doubts might arise as to some of their power to legislate to the full extent required. Some of the greatest losses English Capitalists had sustained had arisen from their trusting to subordinate authorities, which proved not to have the power to give the privileges they had attempted to confer. Many of the powers in this Bill certainly might be given by a Local Legislature; but it was desirable to have a consolidated system of Rules, and Capitalists

accustomed to meet with difficulties elsewhere would here find sufficient to guide them in the whole course of their undertakings.

The Hon'ble MR. HARRINGTON said that he was gratified to find that the Lieutenant-Governor concurred in his opinion of the expediency of the Supreme Council legislating in this matter. The Council were indebted to the Hon'ble Mr. Erskine for the care and attention he had devoted to the Bill, and for the suggestions he had made. He (Mr. Harrington) would not now follow him through them all, but would assure him that the whole of them should be carefully considered in Committee. And as the Bill would be published for the usual period, it could be considered by the Local Governments, whose suggestions or objections would be submitted to the Council. With respect to the scope of the Bill it was doubtful if Section II did not go too far. But it was thought better not to draw the Bill, in the first instance, in too limited a form. It was only permissive in its character, and the Local Governments would select such projects only as were of public importance and benefit. As to the sanction of the Governor-General to the bye-laws, it might suffice to provide for the sanction of the Local Governments if such were the wish of those Governments. There might be difficulty in giving effect to the suggestion of Rajah Dinkar Rao, but it was worthy of serious consideration.

The Hon'ble SIR R. NAPIER said that he thought the suggestions of the Hon'ble Mr. Erskine deserved much consideration, especially in reference to the protection of private rights. And, considering the devoted attachment of the Natives to their hereditary landed rights, he thought that every effort should be made, as far as possible, to give effect to the suggestion of Rajah Dinkar Rao.

The Motion was put and agreed to.

STRAITS SETTLEMENT POLICE BILL.

The Hon'ble MR. HARRINGTON introduced the Bill to amend the Law for regulating the Police of the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca, and moved that it be referred to a Select Committee, with instructions to report in six weeks.

The Hon'ble the LIEUTENANT-GOVERNOR said that he had no doubt of the propriety of giving the Magistrates in the Straits the powers that were exercised in the Presidency Towns over Punch-houses and the like, but he doubted as to the Sections, which provided that the members of the Police Force should be enrolled for definite periods, and should be liable to heavy penalties if they left the Force earlier. The only reason stated for this enactment seemed to be that the pay of the Police was not such as to induce men to continue in it; but the objection to the provision was that enforced service was bad service, and he did not see why a provision of this kind, which had not been adopted in other parts of India, should be made for the Straits. In effect, it added to the Penal Code a provision as to abandonment of service. If this were the object, it were better to extend it to the whole body of Police throughout India.

The Hon'ble MR. HARRINGTON said that the penalties were taken from the existing Police Act, in which they are provided for resigning without notice. There did not appear to be any more objection to requiring a man to enlist in the Police for a definite period, than there was to requiring Soldiers so to enlist. With respect to the pay it might not be desirable nor possible to increase it, but the Section could be considered in Committee.

The Motion was put and agreed to.

EMIGRATION (SEYCHELLES.)

The Hon'ble MR. HARRINGTON moved, that the Report of the Select Committee on the Bill relating to Emigration to the British Colonial Dependency of Seychelles be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. HARRINGTON proposed that the Bill as settled by the Select Committee be passed.

The Motion was put and agreed to.

CONSOLIDATED CUSTOMS BILL.

The Hon'ble MR. ERSKINE moved that the amended Bill to consolidate and amend the Laws relating to the administration of the Department of Sea Customs in India be referred back to a Select Committee, with instructions to report in three weeks, after considering the suggestions made by a several Local Governments and the Chambers of Commerce since the former Report of the Select Committee, and the Bill as amended, were passed. He said that the Bill, as amended by the Select Committee, had been published and circulated, and the opinions and suggestions of the Local Governments had since been received. He hoped to have been able to propose a series of amendments in accordance with the views thus submitted to the Council; but it was found that they would be so numerous that it would be better to have the Bill referred back to a Committee, and re-printed by them in a form shewing the alterations. He hoped that this would not occasion any delay.

The Motion was put and agreed to.

The following Select Committees were named:—

On the Bill to provide for taking land for Works of Public Utility to be constructed by private Persons or Companies, and for regulating the construction and use of Works on land so taken—The Hon'ble Messrs. Erskine, Ellis, Roberts, and the Mover.

On the Bill to amend the Law for regulating the Police of the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca—The Hon'ble Messrs. Erskine, Fitzwilliam, Cowie, Ellis, and the Mover.

On the consolidated Customs Bill—The Hon'ble Messrs. Harrington, Fitzwilliam, Cowie, Ellis, and the Mover.

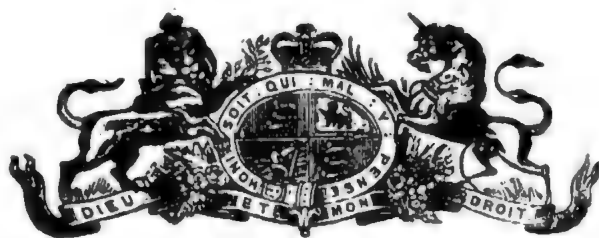
The Council adjourned.

M. WYLLIE,

Deputy Secy. to the Govt. of India,

Home Department.

CALCUTTA,
The 26th November 1862. }



SUPPLEMENT TO The Calcutta Gazette.

SATURDAY, DECEMBER 6, 1862.

OFFICIAL PAPERS.

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Government of India.

**Abstract of the Proceedings of the Council of
the Governor-General of India assembled
for the purpose of making Laws
and Regulations under the provisions
of the Act of Parliament
24 and 25 Vic., C. 67.**

The Council met at Government House on
Wednesday, the 3rd December 1862.

PRESENT:

His Excellency the Viceroy and Governor-General of India, *presiding*.

His Honor the Lieutenant-Governor of Bengal.

Major-General the Hon'ble Sir R. Napier, K. C. B.

The Hon'ble H. Sumner Maine.

The Hon'ble C. J. Erskine.

The Hon'ble W. S. Fitzwilliam.

The Hon'ble D. Cowie.

The Hon'ble Rajah Deo Narain Sing Bahadoor.

The Hon'ble Rajah Dinkar Rao Rugonauth
Moontazim Bahadoor.

The Hon'ble R. S. Ellis, C. B.

The Hon'ble A. A. Roberts, C. B.

RULES FOR THE CONDUCT OF BUSINESS.

His Excellency the PRESIDENT presented the Report of the Select Committee appointed to consider all proposals to alter and amend the Rules for the conduct of Business. His Excellency said the Report was founded on the Correspondence with the Secretary of State, which had been laid before the Council. The alterations made by the Committee in the Rules were not very material. Their object was to bring the Rules into closer conformity to the Indian Council's Act under which it was not the intention of Parliament that there should be a Legislative Council separate and

distinct from the Ordinary Council of the Governor-General. It was hardly consistent with the design of Parliament that the Rules should provide for definite Sessions or Sitzings of the Council for passing Rules and Regulations, and imply that that there would be definite periods when it would be in a state of activity, and definite periods in which it would be in abeyance. It was no doubt convenient that there should be power vested in the Governor-General to summon the Council when special occasion should arise, and the Rule in that respect would not be altered. A short time ago there had been an instance of the necessity of this power. When the High Court was established, it was found that some Legislative action was necessary to enable the Court to exercise its functions. He (the Governor-General), in adjourning the Council in April, had carefully guarded himself against the use of any expressions that implied a prorogation, and thereof there had been no technical difficulty in the way of his summoning the Council for the purpose in view. In the amended Rules the term Session would be omitted altogether, but he (the Governor-General) thought it right to mention that there was no intention of departing from the existing practice of calling the Council together only at times when it would be most convenient for the additional Members to attend. It would be arranged that in the intermediate periods the Legislative measures required by the Government should be prepared for the consideration of the Council. Another alteration in the Rules had reference to the publication of Bills when the Council was not assembled. It was important that some provision of this kind should be made, for as Bills had to be published for three months after their introduction, there would be great inconvenience if no Bill could be published till leave had been given to bring it in, and it had been introduced. But as the Rule stood, it appeared to give an advantage to Ordinary Members of Council over the other Members.

The authority to authorize the publication of the Bill, without a motion being made for leave to bring it in, would therefore be reserved to the Governor-General alone, but the Council might rest assured that the publication of no Bill would be so authorized if it was of such a character that the Council would be likely to refuse leave to bring it in. With these observations he laid the Report on the Table.

CUSTOMS DUTIES BILL.

The Hon'ble Mr. MAINE, in the absence of the Hon'ble Mr. Harington, presented the Report of the Select Committee on the Bill to amend Act

XI of 1862 (to alter the Duties of Customs on Goods imported or exported by Sea).

CODE OF CIVIL PROCEDURE.

The Hon'ble Mr. MAINE, in the absence of the Hon'ble Mr. Harington, requested leave to postpone the introduction of the Bill to amend the Code of Civil Procedure.

The Council adjourned.

M. WYLIE,

Depty. Secy. to the Govt. of India,
Home Department.

CALCUTTA,

The 3rd December 1862. }

Government of Bengal.

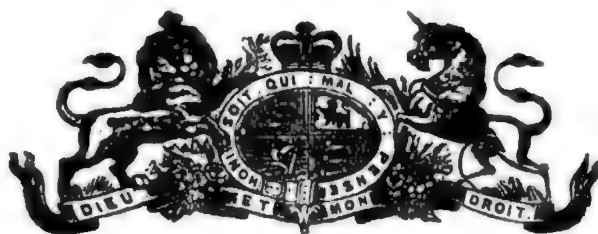
Return of Cinchona Plants.

From T. ANDERSON, Esq., M. D., Superintendent, Botanic Gardens, to H. BELL, Esq., Under-Secretary to the Government of Bengal,—(No. 375, dated the 12th November 1862.)

I HAVE the honor to forward, for the information of the Lieutenant-Governor of Bengal, the Quarterly Return of Cinchonas in the Government Nursery, near Darjeeling. This Table shews an increase of 675 plants for the Quarter ending 31st October 1862.

Return of the Cinchona Plants in the Government Cinchona Nursery, near Darjeeling, for the Quarter ending 31st October 1862.

NAME OF SPECIES.	Remaining 31st July 1862.	Remaining 31st October 1862.	REMARKS.
Cinchona Succirubra	138	213	
„ Calisaya	8	25	
„ Nitida	61	61	
„ Micrantha	42	51	
„ Peruviana	4	8	
„ Pahudiana	1,353	1,921	
„ Spignota	5	7	
Total	1,611	2,286	



SUPPLEMENT TO The Calcutta Gazette.

WEDNESDAY, DECEMBER 10, 1862.

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Government of India, Public Works Department.

Improvement of the River Hooghly.

Note by LIEUTENANT-COLONEL R. STRACHEY, B. E., Secretary to Government of India, Public Works Department, on the subject of the improvement of the Hooghly, dated 5th May 1862.

I HAVE lately been in communication with Captain Reddie on this subject. He informs me that the River this year is unusually bad, and is disposed to consider that some gradual deterioration is going on. He has asked me to consider whether it might not be possible to force more water into the River from above during the rains, and thus to increase the force of the currents and to scour out the sands in the lower parts of the River's course. I have also spoken to Mr. Leonard, the Superintending Engineer in charge of the Bengal Navigable Canals and Rivers, a Civil Engineer of much ability, and now conversant with our streams for many years. I concur with Mr. Leonard in thinking that it is a very difficult matter to settle whether there is in truth any secular tendency in the Hooghly to deteriorate; but that it is very easy to arrive at the conclusion that it is now very bad, and that it is high time to do something to try to improve it. I consequently venture to bring the question before the Government in the hope of seeing some actual steps taken towards a practical attempt to make improvements in the River, on which such a vast trade is dependent.

2. I think that Captain Reddie's suggestion of reinforcing the River from the Ganges must be set aside altogether. As Mr. Leonard has very justly remarked to me, we cannot tell what effect it might have in impeding the River in its upper parts, but we may be quite certain that it would soon seriously impede the mouth of the River. It is indeed to

the action of the tides that we must look for whatever is to be done in the way of actual improvement, and not to the action of the fresh water stream. Those estuaries in the Delta of the Ganges which have no river flowing into them, like the Mutlah, have fine deep water-ways. The silt brought down by the fresh water Rivers is the real enemy to be dealt with, and in proportion as it is small in quantity, the tides keep open a clear and unobstructed channel. Where there is a great mass of silt, the tide in its various stages, in various seasons of the year, distributes the sands and mud in varying positions along the River bottom, causing the dangers and difficulties that are met with by the vessels going up and down.

3. Now an examination of the Map of the Hooghly shows that the general position and character of these dangers has sensibly remained the same for the last eight or ten years at least. There have been considerable changes in the open channels in use by the Ships in the lower part of the River, but even these changes have not been such as to interfere with the justice of the conclusion above stated. Some of the bad places have become absolutely closed for Shipping, and other channels that were worse before have improved. But I feel generally satisfied that the deep channels on the whole have remained tolerably constant in position, and the bad places have equally maintained a certain fixity of character. And this is important, for it gives us ground for a reasonable hope that we may, by artificial means, deepen the shallow parts of the channel, either by an effort made at the beginning once for all, or by what is more likely to be necessary, continued operations to keep down the constant efforts that nature will continue to make to bring things back to their original state. If the deep channels and shallow places were very fluctuating, we should have no confidence in making any attempt to grapple with the difficulties which would be spread over an

indefinite length, and when overcome, might suddenly be brought into existence in some other part of the River.

4. Another encouraging feature in the difficulties is that they usually occur in the form of a short shallow between two long and deep reaches. If we had to deal with a shifting bed, bad for great lengths together, the task would be far more formidable; but fortunately this too is not the case. Without saying that it is the universal character of the difficulties of the Hooghly, I am safe in stating to be a common one, that they occur at a bend of the stream, where the deep water channel is thrown over from one bank to the other. One such difficulty is at Moyapoor, 8 or 10 miles below Calcutta.

5. Now, considering the strong run of the tides in the Hooghly, I think that a system which Captain Reddie recommends might usefully be tried, with some modifications, to cut through such a shoal as that above noticed. He suggests the use of a large Rake, dragged along the River bottom by a Steamer, to stir up the silt, the force of the current carrying it off when once lifted. It might probably be better to have some sort of roller with teeth to throw the silt upwards into the current; but the principle would be identical.

6. What I would now suggest is, that Captain Reddie should be authorized to take up this idea in a definite way, with a view to bringing forward a project for fitting up a Steamer in the manner suggested, to test the practicability of dealing with these shallows. I would begin with that nearest to Calcutta at Moyapoor. It is not a serious danger, but it is well within reach. The work could be thoroughly watched, and any modifications found necessary in working the Apparatus—and doubtless many would be found desirable—could at once be attended to. If as may be hoped, the operation was found to be practicable, and if a sensible improvement in the depth of the water was found to be attainable, the operation might be attempted at some of the more serious barriers. Meantime, attention would gradually be directed to the subject generally, and the best mode of dealing with other parts of the River might be considered, for it is not to be understood that success could be ensured by this means alone.

7. Mr. Leonard agrees with me in recommending this course, and Captain Reddie also. It is, I think, important to make some actual attempt; to deal with some definite portion of the matter in hand thus in an experimental and tentative way; and to avoid running on into discussions as to the probable or possible condition of the River now, compared to what it was half a century ago, or attempting to bring into harmony the thousand discordant opinions that will be given as to the causes of what we have as facts, or as to the best and most comprehensive way of dealing with the subject, as a whole. Here we have a distinct proposal, to attempt to remove a certain definite obstacle, in a precise manner. The trial may, I should trust, be made in a few months, and without any serious expense, and what is more important, without of necessity involving the Government in any further outlay if it should unfortunately prove a failure.

8. The object is one of so much importance that I feel satisfied that the Government will not be disposed to withhold the necessary funds if

assured that the means proposed are likely to produce a useful result; and personally I feel no hesitation in accepting the responsibility of recommending the experiment to be made as early as practicable.

Resolution by the Government of India, Public Works Department, dated 10th May 1862.

Improvement of the Hooghly.

Read a Note by Secretary in the Public Works Department, dated 5th May 1862.

RESOLUTION.—The Secretary in this Department has submitted a proposal that an experiment should be made, on a small and definite scale, to test the practicability of deepening the shallows of the River Hooghly by artificial means.

2. His Excellency in Council, though satisfied of the great importance of the object in view, yet has some doubts of the ultimate success of such operations, except at great and continued cost. His Excellency therefore, though disposed to permit an experiment, as suggested, if it can be carried out at a moderate expense, desires that it should be made with great caution, on a small scale, and on a definite Plan and Estimate. On the receipt of this preliminary information, which should be obtained in communication with the Marine Department, the Governor General in Council will be in a position to pass final orders on the subject.

3. It is therefore ordered that a copy of this Resolution and of the Secretary's Note be sent to the Marine Department, with a request that a Project and Estimate be prepared, in communication with Mr. Leonard, Superintending Engineer, South-Eastern Circle, for carrying out the contemplated experiment on the Hooghly. The project should include a Design for the Dredging or Racking Apparatus, and the mode of its application to any suitable vessel that may be available. Also a proposal to operate on some one specific bank in the Hooghly, selected for its convenience, and its fitness for testing the action of the Apparatus. The Estimate should include not only the cost of fitting up the Apparatus, but also the expense of working it for some definite period, calculated to be sufficient to give a practical test of the success or failure of the experiment. It must be distinctly understood that the cost of the whole must be kept within very moderate bounds.

4. The Project and Estimate may most conveniently be first considered in the Marine Department, and then transferred for final orders in the Public Works Department by which the funds will be provided.

5. Ordered also, that a copy of the papers be sent to the Bengal Government for information, and with a request that Mr. Leonard, Superintending Engineer, South-Eastern Circle, may put himself in communication with the Marine Department to assist in carrying out the intentions of the Government of India in the manner indicated.

From LIEUTENANT-COLONEL J. P. BRADLEY, Officiating Secretary to Government of Bengal, in the Public Works Department, to Secretary to Government of India, Public Works Department, dated 10th June 1862.

With advertence to Resolution on the subject of the "improvement of the Hooghly," communicated in the Proceedings of the Right Hon'ble the Governor-General in Council, No. 1761, dated the 10th ultimo, I am instructed

by the Lieutenant-Governor to state that the papers, together with a Memorandum by the Chief Engineer, of which a copy is herewith enclosed, were duly communicated to Mr. Leonard for his information and guidance, in respect to the 5th paragraph of the Resolution. The Lieutenant-Governor takes much interest in the success of the contemplated experiment, and is anxious to promote it to the utmost of his power, but His Honor does not clearly understand whether it is the wish of the Governor General in Council that the Project and Estimate for carrying it out, including the Design and application of the Apparatus, and the selection of a specific bank in the River to be operated on, are to be submitted to the Government of Bengal in the first instance, or whether it is desired that the operations should be carried on under the direct supervision of the Government of India, and that the Local Government should not interfere in the matter.

P. S.—A communication in manuscript from the Superintending Engineer, South-Eastern Circle, No. 266 of the 6th June, with enclosures just received, is forwarded for information, and it is requested that it may be returned when done with.

Office Memorandum by LIEUTENANT-COLONEL J. P. BEADLE, Officiating Chief Engineer, Bengal, dated 17th May 1862.

In passing on to the Superintending Engineer the accompanying papers on the subject of improving the Hooghly, the undersigned would recommend that the Appendix to Ellet on the Mississippi, pages 318 to 352, which describes his plan of deepening the bar, by stirring up the mud, should be considered. Although there may not be the same opposing under-current in the Hooghly that there is over the bar at the mouth of the Mississippi, still there are extraordinary under-currents, and to do much good, the deposit removed should be brought as near as possible to the surface, and Ellet's plan of attaching to a Steam Tug tubes of iron open at both ends, fixed in an inclined position towards the bow of the boat, so that the lower and forward end should be sunk deep enough to cut into the soft bottom of a shoal, whilst the silt is forced out of the upper end, would answer very well for the purpose of deepening a channel over a shoal in the Hooghly.

2. The undersigned believes that the present bad state of the Hooghly is casual, and not produced by any gradual deterioration of the River; he would feel obliged by the Superintending Engineer making a careful enquiry into the force of the tides during the present monsoon, as compared with the usual conditions of the monsoon.

3. We have in the Hooghly a tidal basin filled during the rains by many fresh water rivers, having their sources in the hills, and bearing down much gravel and sand with a light fertilising mud.

Extraordinary flood seasons bring down extraordinary deposits. The accumulated sands and mud of consecutive seasons of light flood choke the beds of the rivers and advance towards the tidal basin with a slow progress; an extraordinary flood season expels these accumulations, and sweeps them down to the basin where the deposits must remain till dispersed by the action of the tides, or more correctly, by the strong sweeping out action of the tides; and when a season of extraordinary floods is followed by an unusually broken and mild season, when the tidal wave, owing to the

absence of the usual steady heading up winds, comes feebly and with less than usual force to act upon and to disperse unusually large amounts of fresh water deposits, then the phenomenon of a River with unusually clogged channels may be expected to present itself. The undersigned will feel much obliged if the Superintending Engineer, associated with Captain Reddie, will acquire correct information as to the circumstances of the tidal action this year, for if the tidal action should be less than usual, there would be nothing in the present state of the River to cause alarm for the future, although there may be much present inconvenience.

4. There is no doubt that to a certain extent the Hooghly must have deteriorated, because the spread of the spring tides has been prevented over great areas of land, by embanking and also by damming up khals, and in direct proportions the entrance of the tide is restricted, the reflux is weakened, and it is the sweep of the ebb tides which scours the channels.

By embanking the fresh water River, the deposits, which would have spread over the lands liable to be inundated, are restricted to the River beds, and have to be forced down the beds into the Hooghly, so that the operations of the Embankment Department have had a two-fold effect for the deterioration of the Hooghly River, by increasing the deposits brought into it, and by decreasing the volume of the tide which has to sweep them out into the sea. These causes however and the effect are comparatively small, and not very noticeable in ordinary seasons. It requires extraordinary seasons like the late floods, and the present monsoon, to invest the state of the River with the gloomy appearance of having become much worse.

5. The undersigned would also urge that a careful Chart should be made of the Roopnarain, which is a great tidal basin connected with the Hooghly by a neck, set down in Rennell's Map, as "falsely called the old Ganges." The neck to the undersigned's knowledge has been very much shortened, and the channel of the Hooghly has been enlarged below Hooghly Point. The cuttings into the bank above, and below the Roopnarain, and the extent to which the neck has been shortened, and the channel into the Roopnarain altered, should be examined and compared with the facts recorded in Lloyd's Chart of the Hooghly. A cursory glance at the Map will shew how greatly the Roopnarain basin differs from the tidal mouths of the other Rivers falling into the Hooghly, and that the breaking through of the neck must derange the regimen of the Hooghly.

6. These observations are merely made with a view to promote enquiry.

From H. LEONARD, ESQ., C. E., Superintending Engineer, South-Eastern Circle, to Officiating Chief Engineer and Secretary to Government of Bengal, in the Public Works Department, dated 6th June 1862.

I submit copy of a Note and Sketch, which I sent Captain Reddie this day, with reference to the instructions received with Officiating Secretary to the Government of Bengal's No. 2340 of 20th ultimo.

2. I may remark that I did not write this Note before, because the Marine Department took up the matter very promptly, and I have had several interviews with their Engineer about it, but I think the scale on which the experiment is going to be made is so poor and so unlikely to

result in any perceptible benefit, that I venture to put my opinion before you, so that I may not be considered satisfied with, though agreeing to, what is being done.

Note by H. LEONARD, Esq., C. E., Superintending Engineer, South-Eastern Circle, on the subject of the Hooghly Improvements, dated 6th June 1862.

Mr. SANDEMAN called on me and shewed me a Machine designed by him; it consisted of a kind of twin boat, with an opening in the centre of about 6 feet, having on board a 30-horse power engine; his plan was to drop a ladder through this opening, the end of the ladder carried a roller, or barrel, with a series of projecting teeth. The barrel was to be made to revolve by two tumblers and an endless chain, as in ordinary Steam Dredger. The upper tumbler was to be driven by the engine at half the speed of the engine crank.

2. The barrel was, I think, 6 feet diameter, 6 feet wide, and to make about six revolutions per minute, and the ladder was long enough to work in 12 feet of water.

3. The boat was to be moved on by winding up to an anchor cast out ahead, or by slackening out from an anchor as the tide suited.

4. I at first objected to agree to this arrangement—

1st.—Because it was too slow, and on too small a scale, to make any perceptible impression on shoals, such as are to be dealt with in the Hooghly.

2nd. Because the depth to which the ladder could work would not admit of a trial being made on an actual impediment in the river, but on some bank out of the line of the channel.

5. I considered that the power, or want of power, of the stream to carry away, and keep away, the sand stirred up in such a position, would be no fair test of the power of the stream in the actual line of channel; there seems good ground for believing that the stream in the main channel would be much more effective than it would be on any bank away from it, so the trial would not be a fair one.

6. Understanding, however, from Colonel Strachey, during an accidental conversation I had with him, that he thought the arrangement might answer, and that there was no hope of getting a more powerful Steamer, which was at first talked of for doing the work, and on learning also that the desire was to do something, even though on a poor scale, I agreed with Mr. Sandeman to join in approval that a trial should be made with the Machine prepared by him, provided that the ladder be so lengthened that the trial may be made in the actual channel on the nearest shallow, so I presume the work is being proceeded with.

7. But though I agree so far, for the sake of meeting the wishes of others, that something should be done, I do not at all agree that the arrangement is the best to be tried, or that it is on a scale at all worthy of the importance of the experiment.

8. Suppose the Machine to do all Mr. Sandeman hopes for it, his calculation is 360 feet forward per hour; working say eight hours a day, (it could not work at all at high water,) the result would be a surface of sand of 2,880 feet long by 6 feet wide, say=17,000 superficial feet per day stirred up. This is a high calculation, now the smallest shoal on the river is that near Moyapoor. It is as well as I can make it out from the Map,

about 3,000 feet long, the channel above and below about 1,500 feet wide. It would, I suppose, be necessary to deepen the shoal, if it can be done to about the same width as the deep channel above and below, that is 1,500 feet, the area of the shoal is then 4,500,000 superficial feet, so it would take the Machine nearly nine months to go once over the shoal.

9. This seems to me toying with the question.

10. The arrangement of barrel with projecting teeth revolving on its axis, and moving on as it revolves, seems the best arrangement that can be adopted for stirring up sand; it does it with the least expenditure of labor, and if the teeth be well arranged, it stirs it up completely over the whole surface.

11. I do not think it is of much advantage to stir up the sand to any great depth; better loosen up the top, say 4 inches to 6 inches deep, do it frequently, and so keep it loose and in motion, that the rubbing of the under-current may roll it away. I think very much more is done by rolling the sand along the bottom than by carrying it away in suspension. Indeed, I have seen it very distinctly in a clear stream, stir up the sand, it will rise in the water for a very short time, then settle down and roll along the bottom as long as the stream is strong enough to move it.

12. The arrangement of Machine, I think, best suited for the Hooghly work, is a set of skeleton barrels of about five feet diameter, with flat iron teeth projecting six inches, and six inches apart every way. I would have the barrel skeleton and of wrought-iron, so as to present as little resistance to the movement of the vessel or the stream as possible.

13. I do not think it would require great power to draw two barrels aft of the vessel of about the width of her beam, and two forward of the paddles of about ten feet wide each. The arrangement of four I think good, as the vessel, when going against the stream, could not pull at all as much as when going with the stream; when going against the stream, the two abreast or the two aft, as was found most convenient, could be wound up to relieve the vessel.

14. I annex a Sketch of the Machine I have in view, which will explain all the main features of it; it cannot be very expensive.

15. No doubt there will be more difficulty in steering a vessel drawing the Machine than if free of it, but it is impossible to put any such arrangement to a vessel without encumbering her to some extent.

16. If the *Sitang* be fitted up as sketched, she would, I hope, run three miles an hour against tide, with two of the barrels down, and seven miles with tide, with all four down, that is an average of five miles an hour, or say, including turning and unexpected difficulty, five times per hour over the Moyapoor shoals; working ten hours per day, (she could work in any depth of water, high tide or low tide,) she could run fifty times a day over the shoal. Taking an average width of barrels of 30 feet, she would do $30 \times 8,000 \times 50 = 45,00,000$ superficial feet each day, or once over the whole surface of the shoal, instead of spending eight or nine months at it, by this means we might hope to make some progress.

17. Of course, it is known exactly how many barrels the Steamer will tow, or how fast she will tow them, and many unforeseen difficulties will

arise in carrying out the work, but these are the points for an Engineer to overcome, which I hope may be overcome.

18. I may mention that a Steamer was fitted up for the Bhaugiruttee last year with harrows, hung and towed in the same way as the Sketch shows for the aft barrels, and as far as the arrangement of towing and winding up, it acted very well, but the cutting through the sand with the harrow teeth anchored the Steamer against stream; hence I have adopted the barrels.

19. It was found a barrel covering the same surface as a harrow only took a quarter inch the power to draw it, and the barrels threw up the sand better than the harrow. It is the plan on which some ground digging machines were made at home.

From CAPTAIN J. G. REDDIE, Officiating Controller of Marine Affairs, to Secretary to Government of India, Public Works Department, dated 3rd October 1862.

I HAVE the honor to forward copy of a letter from the Officiating Superintendent of the Dock Yard, No. 5044, dated the 27th ultimo, submitting an Estimate of the expense of fitting the Steamer *Sitang* as a Dredge, amounting to Rs. 9,512-5-0, together with an Estimate shewing the probable monthly expense of a Steamer for wages, fuel, &c., amounting to Rs. 4,912-10-8 per mensem, and to beg the favor to your obtaining the sanction of Government to the expenditure for fitting up the vessel, as also to the temporary maintenance of the vessel upon the scale of Establishment recommended for the working of the scheme.

From CAPTAIN G. J. NEELETT, Acting Superintendent, Dock Yard, Kidderpore, to Officiating Controller of Marine Affairs, dated 27th September 1862.

With reference to your No. 4928 of the 8th instant, I have the honor to submit the following Estimate of the expense of fitting the *Sitang* as a Dredge, also an Estimate shewing the probable monthly expense of the Steamer for wages, fuel, &c.:-

Chief Superintending Engineer's Estimate of the year required to be fitted.

Material in store ... Rs. 1,500 0 0
 " to be purchased " 750 0 0
 Labor ... " 2,500 0 0
 ----- 4,750 0 0

Builder's Estimate of cost for wood-work.

Material in store ... Rs. 2,812 5 0
 " to be purchased " 880 0 0
 Labor ... " 1,100 0 0
 ----- 4,792 5 0

Total Rs. 9,512 5 0

Statement showing the probable monthly expenses of the Steamer "Sitang" as a Dredge, for wages, fuel, provisions, and Steam Money.

	Probable quantity of coal for 26 days.	Cost of coal at the average rate of Rs. 15 per ton.	Wages of Commander and Crew.	Cost of Provisions.	Total Amount.	Grand Total.
	Tons.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
Coal	304	3,070 0 0	1,247 2 6	111 0 0	4,428 2 6	
Engine-room stores					200 0 0	
Ship stores					150 0 0	
Steam Money for Chief Engineer, at Rs. 2 per day					52 0 0	
Ditto for Third Engineer at Rs. 1-6 per day					39 0 0	
Contingencies					50 0 0	
						4,912 10 6

G. J. NEELETT, Captain,
 Actg. Supdt., Dock Yard.

From LIEUTENANT-COLONEL R. STRACHEY, M. E., Secretary to Government of India, Public Works Department, to Officiating Secretary to Government of Bengal, in the Public Works Department, dated 17th November 1862.

With reference to your letter No. 2620, dated 10th June last, I am directed to forward copy of a letter* from the

Controller of Marine Affairs, and its enclosed

Nine thousand five hundred and twelve Rupees and five annas. Estimates, amounting, respectively, to Rupees 9,512-5, for fitting up

Four thousand nine hundred and twelve Rupees, ten annas, and eight pie. the Steamer *Sitang* as a Dredger, and Rupees 4,912-10-8, the

probable monthly expense of Establishments for working that vessel during its employment on the work of improving the River Hooghly.

2. The Governor General in Council sanctions the Estimate for fitting up the *Sitang*, and will provide the necessary funds from the reserve at the disposal of this Department; but it is remarked that the charges for stores appear to be very high, and that no more than the fair market value of the materials should be charged to the Public Works Department. Further, these charges will probably only be in account, and will not affect the Budget disbursement.

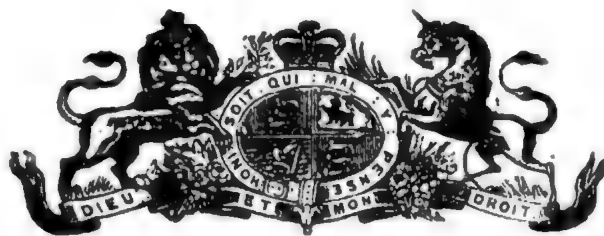
3. As to the Establishment proposed for working the vessel, it will probably be sufficient to allow the experiment to be made for one or two months, closely watching its progress, and reducing the charge as much as is practicable.

4. On a report of the sum required for transfer to the credit of the Bengal Government on these accounts, the necessary further orders will be issued in this Department.

5. In conclusion, I am to explain that the preliminary steps in this matter have been taken by the Government of India only with a view to

expediting the commencement of an experiment in the direction contemplated; and that it has throughout been the intention of His Excellency in Council to leave its further management in the hands of the Lieutenant-Governor, who will doubtless be impressed with the great importance of seeing that a fair trial is given to these operations, which, if successful, will be of the greatest importance to the commercial interests of Calcutta. At the same time it is necessary to remind the Lieutenant-Governor that great caution will be requisite to prevent the Government from being committed to any outlay by permitting what is now intended merely as an experiment to run on into more serious operations until the practical question is satisfactorily solved, and a clear financial view taken of the whole matter.

6. The original papers received with your letter No. 2620, dated 10th June last, are herewith returned.



SUPPLEMENT TO The Calcutta Gazette.

SATURDAY, DECEMBER 13, 1862.

OFFICIAL PAPERS.

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Government of India.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., C. 67.

The Council met at Government House on Wednesday, the 10th December 1862.

PRESENT:

His Excellency the Viceroy and Governor-General of India, *presiding*.

Major-General the Hon'ble Sir R. Napier, K. C. B.

The Hon'ble H. B. Harrington.

The Hon'ble H. Sumner Maine.

The Hon'ble C. J. Erskine.

The Hon'ble W. S. Fitzwilliam.

The Hon'ble D. Cowie.

The Hon'ble Rajah Deo Narain Sing Bahadoor.

The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.

The Hon'ble R. S. Ellis, C. B.

The Hon'ble A. A. Roberts, C. B.

BREACHES OF CONTRACT BILL.

The Hon'ble MR. MAINE presented the Report of the Select Committee on the Bill relating to Breaches of Contract committed in bad faith.

ARTICLES OF WAR (NATIVE OFFICERS AND SOLDIERS) AMENDMENT BILL.

The Hon'ble MR. MAINE moved for leave to bring in a Bill to amend Act XXIX of 1861 (to consolidate and amend the Articles of War for the government of the Native Officers and Soldiers in Her Majesty's Indian Army). He said that the Bill was intended to remove some doubts and

misapprehensions which had arisen in the construction of the Articles of War which derived their sanction from Act XXIX of 1861. In one Article it was found that the negative "not" had been omitted, and thereby a different meaning to that intended had been conveyed; and doubts had arisen as to a reference in the same Article to certain Commanding Officers, Commanding Detachments, to whom summary powers were intended to be given. These doubts would be removed, and, at the same time, summary powers would be given to the Commanding Officers of Detachments in situations beyond the Seas, and in cases of critical emergency. In another Article some words were found that kept alive a jurisdiction, in the Bombay Presidency, of Courts Martial, in cases which it was intended should be triable by the Criminal Courts. There were other amendments in matters of detail. The Bill was introduced on the recommendation of the Government of India, in the Military Department, and had been approved by His Excellency the Commander-in-Chief, and by the Civil and Military Authorities of the Madras and Bombay Presidencies.

The Motion was put and agreed to.

CODE OF CIVIL PROCEDURE.

The Hon'ble MR. HARRINGTON introduced the Bill to amend the Code of Civil Procedure, and moved that it be referred to a Select Committee, with instructions to report in eight weeks. He stated that that time would suffice for the publication of the Bill.

The Motion was put and agreed to.

CUSTOMS DUTIES BILL.

The Hon'ble MR. HARRINGTON moved that the Report of the Select Committee on the Bill to amend Act XI of 1862 (to alter the Duties of

Customs on Goods imported and exported by Sea) be taken into consideration.

The Motion was put and agreed to.

The Hon'ble Mr. HARRINGTON proposed that the Bill, as settled by the Select Committee, be passed.
The Motion was put and agreed to.

**WORKS OF PUBLIC UTILITY BY PRIVATE PERSONS
OR COMPANIES.**

The Hon'ble Mr. HARRINGTON moved that the Hon'ble Mr. Fitzwilliam be added to the Select Committee on the Bill to provide for taking Land for Works of Public Utility, to be constructed by private persons or Companies, and for regulating

the construction and use of Works on land so taken.

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill to amend the Code of Civil Procedure.—The Hon'ble Messrs. Harrington, Erskine, and Roberts.

The Council adjourned.

M. WYLIE,
*Deputy Secy. to the Govt. of India,
Home Department.*

CALCUTTA,
The 10th December 1862. }

Government of India, Public Works Department.

Progress Report of Plate-laying for the Month of October 1862.

EAST INDIAN RAILWAY, NORTH-WESTERN PROVINCES.

BENARES DISTRICT.

Progress Report of Plate-laying for the Month ending 31st October 1862.

STATIONS.	Total Distance Miles.	Linked in Miles.	Completed Miles.	REMARKS.
Kurrunnassa River to Guhmer Station ...	4 18	4 18	4 18	
Guhmer Station to Dildarnuggur Station ...	9 79	9 79	9 79	
Dildarnuggur Station to Zumnueah Station...	8 43	8 43	8 43	
Zumnueah Station to Sikuldeah Station ...	16 17	16 17	16 17	3 miles not ballast- ed. Ballast being laid.
Sikuldeah Station to Mugulserai Junction ...	11 33	11 33	10 25	
Mugulserai Junction to Benares Terminus ...	6 13	6 13	5 33	
Total ...	55 98	55 98	54 60	
Sidings ...	6 95	3 94	3 19	
Grand Total ...	62 93	59 92	57 79	

(Sd.) G. SIBLBY,
Chief Engineer.

EAST INDIAN RAILWAY, NORTH-WESTERN PROVINCES.

AGRA DISTRICT, MAIN LINE B.

Progress Report of Plate-laying for the Month ending 31st October 1862.

STATIONS.	Total Distance Miles.	Linked in Miles.	Completed Miles.	REMARKS.
Junction to Burhun Station ...	8· 87	8· 87	8· 87	
Burhun Station to Julesure Road Station ...	8· 14	8· 14	8· 14	
Julesure Road Station to Hattras Road Station	12· 40	12· 40	12· 40	
Hattras Road Station to Palee Station ...	10· 10	0· 55	0· 30	
Palee Station to end of District ..	4· 89	.....	.....
Total ...	44· 40	29· 96	29· 71	
Sidings ...	2· 05	0· 55	0· 55	
Grand Total ...	46· 45	30· 51	30· 26	Stopped by want of Sleepers.

(Sd.) G. SIBLEY,
Chief Engineer.

EAST INDIAN RAILWAY, NORTH-WESTERN PROVINCES.

DELHI DISTRICT.

Progress Report of Plate-laying for the Month ending 31st October 1862.

STATIONS.	Total Distance Miles.	Linked in Miles.	Completed Miles.	REMARKS.
End of Agra District to Allyghur Station ...	3· 79	2· 50	1· 06	
Allyghur to Somna ...	13· 68	.....	.....
Somna to Koorjah ...	13· 24	.....	.....
Koorjah to Bolundshuhur Road ...	8· 87	.....	.....
Bolundshuhur Road to Secunderabad .	8· 88	... ..	... ..
Secunderabad to Dadree ...	11· 10	.....	.....
Dadree to Gazeoodeennuggur Junc- tion ...	10· 17	.....	.....
Gazeoodeennuggur Junction to Delhi Terminus ...	12· 55	.....	.....
Total ...	82· 08	2· 50	1· 06	
Sidings ...	12· 01	.....	.....
Grand Total ...	95· 00	2· 50	1· 06	

(Sd.) G. SIBLEY,
Chief Engineer.



SUPPLEMENT TO The Calcutta Gazette.

WEDNESDAY, DECEMBER 17, 1862.

OFFICIAL PAPERS.

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Government of India, Home Department.

Emigration from India to the British West India Colonies in 1861-62.

From S. WALCOTT, Esq., to SIR FREDERIC ROGERS, Bart., &c., &c., &c.—(dated Emigration Office, the 3rd October 1862.)

I HAVE the honor to enclose, for the Duke of Newcastle's information, a complete Return of the Immigration into the West Indies from India during the season which has recently closed.

2. It will be seen that thirty ships were despatched in the season—twenty-seven from Calcutta, and three from Madras; and that the entire number of persons landed in the West Indies was 10,880, of whom 9,855 were from Calcutta, and 1,025 from Madras.

3. With regard to the mortality on the passage, I am happy to state that there was a manifest improvement.

4. In the three Madras Ships, all of which went to British Guiana, the mortality was, as usual, small. Out of 1,040 persons embarked and born on the voyage only fifteen died, or at the rate of 1.44 per cent. In the preceding season of 1860-61 the percentage was 1.52.

5. In the Calcutta emigration out of 10,375

Year.	Percentage of mortality.	Number embarked and born on the voyage.
1854-55	3.63	2,389
1855-56	4.73	1,822
1856-57	17.36	4,018
1857-58	18.7	2,820
1858-59	1.62	5,140
1859-60	1.25	8,182
1860-61	1.52	10,795
1861-62	1.44	10,880

persons embarked and born on the voyage there were 520 deaths equal to 5.01 per cent. This is the smallest mortality in the Calcutta emigration since 1854-55. In the season of 1860-61 the percentage (including the *Banmouth*, a St. Kitt's Ship, of which we have re-

turned to Calcutta) was 5.54. The improvement is probably due to several causes, a healthier season, improved selections,

fewer children, better hold ventilation, better diet and clothing on the voyage, the use of Dr. Normandy's water distilling apparatus, and the employment of more experienced Surgeons.

6. The chief diseases in Cooly Ships are cholera, dysentery and diarrhoea, and the greatest mortality in former years has occurred, as might be expected, in vessels which sailed when cholera was rife in the Depot and has broken out in the River before the Ships leaving the Sandheads. There was fortunately very little cholera last season; indeed with the exception of the *Prince Consort* in which there were six cases, the Ships were almost exempt from that fearful disorder, though dysentery and diarrhoea appear to have very generally prevailed.

7. The proportion of females, which in 1860-61 was equal to 48.9 per cent. of the immigrants embarked, was last year only 27.06 per cent. As female immigration, however desirable in other respects, necessarily entails the necessity of sending young children and a larger proportion of aged relatives, among which classes the mortality is of course the greatest, the reduction in the proportion of women may not have been without its influence in lessening the mortality of this season's emigration.

8. As this was the first season in which the use of Normandy's apparatus and the employment of our Australian Surgeons have been tried to any extent, we have been anxious to see if any of the improvement could be traced to them. It is difficult to judge of the effect of these measures from one year's experience, but the difference in the healthiness of the Ships in which they have been tried is so marked as to justify the conclusion that they have contributed in no small degree to the result.

9. In the Ships carrying neither our Surgeons nor the distilling apparatus, the death rate was 7.07 per cent. In four Ships not carrying our Surgeons, but carrying the distilling apparatus, it was 5.60. And in the thirteen remaining Ships which carried our Surgeons, but in three of which there was no distilling apparatus, the percentage was 3.36.

10. Having thus given a general outline of the last year's immigration, it may be convenient to examine it in more detail. The following Table will shew how the Calcutta emigration was distributed and the rate of mortality on the voyage to the different importing Colonies:—

COLONY.	Ships.	Embarked.	Births.	Deaths.	Percentage of deaths.
Jamaica ...	6	2,168	9	195	8.95
British Guiana...	11	4,365	15	194	4.52
Trinidad ...	5	2,032	0	71	3.48
St. Lucia ...	1	836	1	17	5.04
Grenada ...	3	1,122	4	29	2.57
St. Vincent ...	1	367	1	10	3.15
Total ...	27	10,890	36	620	5.01

11. The Jamaica emigration contrasts, as regards mortality, very unfavorably with that of any of the other Colonies. This may in some degree be owing to the changes in the Agency, which must militate against the accumulation of experience. Mr. McGregor, after a short incumbency, was compelled to retire from ill health, and Mr. Carmichael re-placed him for one season until the Colonial Government could appoint a successor, which it did in Mr. Anderson, who proceeded from Jamaica and arrived in Calcutta in January last. It may also be observed that the Jamaica Government, in signifying its acceptance of the plan for employing our Australian Surgeons, expressed a wish that the least expensive Surgeons amongst those who were competent should be engaged, and the Executive Committee suggested that resort should be had to our Australian Surgeons when Medical men who had satisfactorily attended Coolies to the West Indies could not be procured. Instructions to this effect were accordingly sent to the selecting Agent in India. The result was that in one Ship only (the *Hongomont*) was an Australian Surgeon engaged, and in that vessel the mortality was only 2.51, whilst in all the other vessels it ranged from four (under Dr. Rivers, who had made eight previous voyages with Coolies) to upwards of 14 per cent. in the *Scoreaby*. Without laying too much stress on it, this fact is still not without significance. The average death rate in the six Ships was, as shewn in the Table, 8.95, which was an improvement on the previous season when it was 11.71 per cent. The two Ships, the *Hongomont* and *Sydenham*, in which the lowest mortality occurred, had Dr. Normandy's apparatus on board.

12. The average mortality in the twelve vessels to British Guiana in the season of 1860-61 was 8.07 per cent. In the season just ended the average in the eleven Ships despatched did not exceed 4.52. It is deserving of remark that eight of these latter Ships carried our Australian Surgeons, and that the three vessels were all fortunate in their Surgeons. The entire emigration to this Colony during last season was therefore under the care of Officers of experience and good professional character. The three vessels not supplied with our Surgeons were the *Gibana*, *Beloidera*, and *Utopia* was 5.15. The Surgeon, Mr. Charles Terry, had had charge of the Cooly Ship *Almwick Castle* last year, and his diary and journals, it is stated, were kept with accuracy and with a due regard to his instructions. The mortality in the

Beloidera was only 3.16 per cent. The Surgeon, Dr. Stewart, had not had the charge of Coolies before, but he is described as a gentleman of much experience, being in the service of the Indian Army and going home on leave. The mortality in the *Utopia* was as much as 6.45 per cent. But the Colonial Authorities speak in high terms of the Surgeon Mr. Donald McDonald.

13. The average percentage of deaths in the five Trinidad vessels is less than in the six Jamaica Ships or the eleven British Guiana Ships. It was only 3.48. The year before it was 6.89 per cent. Three of the five Trinidad Ships were under Australian Medical superintendence, namely, the *Almwick Castle*, the *Clarence*, and the *Colgrain*. The mortality in each of these vessels was unusually small, being respectively 1.03, 1.29, and 1.76 per cent. The number of deaths were in the *Almwick Castle* five (of which one was from suicide), in the *Clarence* six, and in the *Colgrain* four.

14. In the *Tyburnia*, one of the two Ships which were not under the superintendence of our Surgeons, the mortality was as much as 9.22 per cent; in the other the *Daniel Rankin* it did not exceed 4.39. In neither case was any blame attached to the Surgeons who appear to have performed their duties satisfactorily. The sickness in the *Tyburnia* was not, as is frequently the case, at the beginning of the voyage, but increased as the voyage proceeded, shewing apparently that some continuous agency was at work. During the first seven weeks nine persons died, and twenty-six during the second seven weeks. The vessel was laden with rice, and it is conjectured that the sickness was caused by exhalations from the hold, which was insufficiently ventilated. Whether from this or the defective construction of the water closets, the between-decks, although stated to have been remarkably well ventilated, were observed to have a closed and musty smell, which did not exist in the same vessel on a previous voyage the year before.

15. In the *Daniel Rankin* where, as has been already observed, the mortality was 4.39 per cent., there were only fourteen children, including three infants, and it may be deserving of remark that they all survived the voyage.

16. The smallness of the mortality among the children is indeed a peculiar feature in this year's emigration; but it must be borne in mind that fewer than usual were embarked, and that it is when a large number are on board that the mortality in this class is usually so very high. The percentage of deaths among children under 13 years of age in the last three seasons was as follows:—

SEASON.	Proportion of children embarked and born on the voyage.	MORTALITY.	
		Between 1 and 12 years.	Infants.
1859-60 ...	18.4	16.5	34.7
1860-61 ...	18.9	13.9	28.1
1861-62 ...	10.4	6.6	12.9

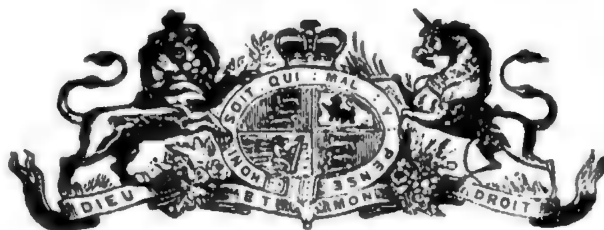
17. Of the remaining five vessels despatched to St. Lucia, Grenada, and St. Vincent, only one, the *Ganges*, was under the superintendence of an Australian Surgeon, and the death rate in that vessel was only 2.18 per cent. The mortality, as shewn in the preceding Table, was not large in any of these Ships, and there is nothing in respect of them which seems to require special remark.

RETURN OF SHIPS AND EMIGRANTS DESPATCHED FROM CALCUTTA AND MADRAS TO THE WEST INDIES IN 1861-62.

Name of Vessel.	Tonnage.	Port of Departure.	Date of Sailing.	Date of Arrival.	COOLIES.			Cause of Death.	Name of Surgeon.	Whether or not Dr. Normandy's Distilling Apparatus on Board.	REMARKS.	
					Embar- ked.	Born on the Voyage.	Percentage of mor- tality on numbers embarked and born on the Voyage.					
January.												
"Ostrada"	919	Calcutta	19th September 1861.	4th January 1862.	399	2	41	11.96	Diarrhoea, Dysentery	G. Haines Atwell	No.	(a) 2 of these supposed to have jumped overboard, reducing mortality from natural causes to 13.67.
"Scoruby."	785	"	11th October 1861.	19th "	360	1	15	14.12	Diarrhoea, Dysentery	J. R. Higgins	No.	
"Empress Eugenie"	875	"	13th November 1861.	30th February 1862.	331	4	36	10.74	Mostly Diarrhoea, one case of Cholera	T. Chinnell	Yes. Fitted in Calcutta, not used as the water was impregnated with salt of lead.	(f) 7 previous voyages to the West Indies, and two to Mauritius with Coolies.
"Sydenham"	1,470	"	16th December 1861.	12th March 1862.	380	1	16	4.03	Diarrhoea, Dysentery, Fever, Anasarca, Jaundice.	R. Rivers	(f) 1	(g) 2 previous voyages with Coolies and 1 with Soldiers' Wives and families to India, and 1 with Chinese to British Guiana.
"Marion"	681	"	16th January 1862.	12th May 1862.	319	1	38	11.91	Diarrhoea, Dysentery	J. Cohen	No.	(h) 1 previous voyage with Coolies and 1 with Soldiers' Wives and families to India.
"Hogmonst"	962	"	19th February 1862.	12th June 1862.	396	1	10	2.51	Diarrhoea, Dysentery, Mucous, Ulcerated palate, old age, Chronic Bronchitis.	J. C. Sanger, M. D.	(f) 11	
British Guinea.					Total	2,168	9	195	8.95			
"Gizna"	1,333	Calcutta	19th September 1861.	16th December 1861.	425	3	42	3.15	Diarrhoea, Dysentery, Fever, Atrophy, old age	Charles Terry	No.	(i) 2 of these committed suicide, reducing mortality from natural causes to 27.
"Belvidera"	681	"	10th October 1861.	24th January 1862.	347	1	11	3.16	Diarrhoea, Debility	C. S. Stewart, M. D.	No.	(j) Exclusive of 1 union, which would raise mortality to 3.44
"Prince Consort"	1,233	"	6th November 1861.	17th February 1862.	404	1	33	7.90	Cholera (5), Diarrhoea, Dysentery, Scorbuts	Charles H. Graham, M. D.	6	(k) 8 previous voyages with Coolies and 5 years in liberated African service.
"Utopia"	949	"	30th "	20th "	393	3	31	6.45	Diarrhoea, Dysentery, Cholera (2), Fever	Donald Macdonald	Yes. Fitted in England, worked satisfactorily.	(l) 2 previous voyages with Coolies and 1 with Chinese to British Guiana.
"Macedon"	1,051	"	23rd December 1861.	12th March 1862.	386	1	10	2.58	Diarrhoea, Dysentery, Intermittent Fever, Rem. disease.	S. Payne Chinnell	(f) 1	(m) 1 previous voyage with Coolies and 1 with Chinese to British Guiana.
"Atalanta"	900	"	25th January 1862.	13th April 1862.	454	1	8	1.76	Diarrhoea, Fever, Phlegm, Mucous	J. G. Winstone	(g) 5	(n) 1 previous voyage with Coolies and 1 with Chinese to British Guiana.
"Princess Royal"	1,295	"	5th February 1862.	2nd May 1862.	471	1	17	3.51	Dysentery, Cholera (1), Mucous, Apples	H. Lammigan	(h) 4	(o) 1 previous voyage with Coolies and 1 with Chinese to British Guiana.
"Collingwood"	682	"	9th "	19th June 1862.	396	2	11	2.57	Dysentery, Diarrhoea, Debility	W. Davidson	(i) 7	(p) 1 previous voyage with Coolies and 1 with Chinese to British Guiana.
"Evelin Castle"	537	"	8th March 1862.	15th "	294	1	12	4.05	Cholera, Diarrhoea, Dysentery, Debility, Bronchitis, Laryngitis.	J. L. V. Gregory	(j) 1	(q) 1 previous voyage with Coolies and 1 with Chinese to British Guiana.
"Gipsy Bride"	1,158	"	17th "	1st July 1862.	439	2	25	5.66	Cholera, Dysentery, Convulsions, Paralysis	J. S. Ireland	6	(r) 1 committed suicide, reducing mortality from natural causes to 5.46
"Empire of Peace"	1,540	"	11th "	13th "	370	3	19	5.09	Cholera, Diarrhoea, Dysentery, Dropsy, Jaundice.	Alexander Cumming, M. D.	6	(s) 1 previous voyage with Coolies and 1 with Chinese to British Guiana.
Trinidad.					Total from Calcutta 1861.	4,365	15	198	4.52			
"Tyburn"	691	Madrass	24th November 1861.	16th February 1862.	359	2	3	.50	Dysentery, Hydrocephalus, Dropsy	Frederick Gordon	No.	(t) 1 previous voyage with Coolies and 1 with Chinese to British Guiana.
"Mariner"	682	"	26th November 1861.	19th March 1862.	316	1	11	3.44	Dysentery, Atrophy, Bronchitis, Cholera	George Ireland Russell	No.	
"Statuans"	611	"	26th February 1862.	9th June 1862.	359	1	1	.27	Debility	A. A. Kennedy	No.	(u) 1 previous voyage with Coolies and 1 with Chinese to British Guiana.
Trinidad.					Total from Madras	1,006	4	15	1.41			
Trinidad.					Total in British Guinea 1861.	5,491	12	212	3.92			
"Tyburn"	1,097	Calcutta	1st September 1861.	19th November 1861.	401	1	37	9.23	Dysentery (debility)	Henry Carr	No.	(v) 1 of these committed suicide, reducing mortality from natural causes to 4.02.
"Daniel Rankin"	1,047	"	9th October 1861.	8th January 1862.	410	1	18	4.39	Dysentery, Bronchitis	Wilkinson	No.	
"Abrwick Castle"	1,067	"	31st "	10th "	478	3	15	3.13	Bronchitis, Debility	W. H. Peave, M. D.	(a) 7	(w) 1 previous voyage with Coolies and 1 with Chinese to British Guiana.
"Cherries"	1,101	"	18th November 1861.	6th March 1862.	462	1	6	1.29	Dysentery, Fever	F. W. Johnson	7	(x) 1 previous voyage with Coolies and 1 with Chinese to British Guiana.
"Colgrin"	623	"	19th January 1862.	17th April 1862.	281	2	5	1.76	Diarrhoea, Cholera (1)	C. Kitching	(a) 7	(y) 1 previous voyage with Coolies and 1 with Chinese to British Guiana.
St. Lucia.					Total Trinidad 1861.	2,082	6	71	3.40			
"Ulysses"	934	Calcutta	16th November 1861.	15th February 1862.	336	1	17	5.04	Diarrhoea, Dysentery, Fever, Debility	J. O. Taylor	No.	(z) 1 previous voyage with Coolies and 1 with Chinese to British Guiana.
Greenia.												
"Annington"	1,022	Calcutta	12th October 1861.	9th January 1862.	325	2	15	3.50	Diarrhoea, Dysentery, Cholera (1), Remittent Fever, Convulsions.	James A. Green, M. D.	No.	(aa) 1 previous voyage with Coolies and 1 with Chinese to British Guiana.
"Albion"	975	"	24th December 1861.	24th March 1862.	377	1	7	1.83	Dysentery, Fever, Peritonitis	H. A. Kidd, M. D.	Yes. Fitted in Calcutta, worked well.	
"Ganges"	830	"	21st February 1862.	24th May 1862.	230	1	7	2.16	Dysentery, Diarrhoea, Fever, Bronchitis, Peritonitis, Debility.	B. L. Cross, M. D.	(a) 4	(bb) 2 previous voyages with Coolies and 1 with Chinese to British Guiana.
St. Vincent.					Total Greenia 1861.	1,322	4	29	2.57			
"Castle Howard"	797	Calcutta	17th January 1862.	11th April 1862.	316	1	10	3.16	Dysentery, Diarrhoea	W. J. Thompson	No.	(cc) 1 previous voyage with Coolies and 1 with Chinese to British Guiana.
Grand Total.					11,375	40	335	4.60				

MORTALITY IN CALCUTTA SHIPS.

Mortality in 10 Ships from Calcutta to West Indies carrying Australian Surgeons and Distilling Apparatus	2.53
3 Ships carrying Australian Surgeons but without Distilling Apparatus	2.51
4 Ships not carrying Australian Surgeons, but with Distilling Apparatus	3.50
10 Ships carrying neither Australian Surgeons nor Distilling Apparatus	7.66



SUPPLEMENT TO The Calcutta Gazette.

SATURDAY, DECEMBER 20, 1862.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE will henceforward be published, weekly or twice a week, according to circumstances, containing such Official Papers and Information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

Non-Subscribers to the GAZETTE may receive the SUPPLEMENT separately on a payment of six Rupees per annum if delivered in Calcutta, or twice Rupees if sent by Post.

No Official Orders or Notifications, the publication of which in the GAZETTE is required by Law, or which it has been customary to publish in the GAZETTE, will be included in the SUPPLEMENT. For such Orders and Notifications the body of the GAZETTE must be looked to as heretofore.

Government of Bengal.

Capabilities of Chittagong for the growth of Tea and Coffee.

From W. G. YOUNG, Esq., Officiating Commissioner of the Chittagong Division, to the Officiating Secretary to the Government of Bengal,—(No. 392, dated the 26th November 1862.)

SIR,—I HAVE the honor to forward, for the Lieutenant-Governor's perusal, two letters, addressed to me by Dr. Beatson and Mr. James Bruce, on the capabilities of this District for the growth of Tea and Coffee. The former gentleman has been a resident in the District for eight years, and the latter for more than twenty years. I also forward a Statement furnished by the Collector, shewing the Waste Lands available for grants in the surveyed part of the District, as distinguished from the unsurveyed Hill tracts in which there is any amount of jungle and waste.

2. Perhaps the Lieutenant-Governor will think that these papers are sufficiently interesting to be published in the Supplement to the *Calcutta Gazette*.

P. S.—I shall be obliged by your returning me the enclosed papers when no longer required.

From Dr. W. B. BEATSON, Civil Assistant Surgeon of Chittagong, to W. G. YOUNG, Esq., Officiating Commissioner of the Chittagong Division,—(No. 30, dated the 29th October 1862.)

SIR,—I HAVE the honor to acknowledge the receipt of your letter No. 350, dated 18th instant,

requesting me to furnish you with a Report on the cultivation of Tea and Coffee in this District, shewing if such cultivation might be made a profitable branch of industry, and what causes have hitherto stood in the way of its being carried on.

In reply, I beg to state that I have no doubt that both Tea and Coffee of excellent quality can be produced in Chittagong, and that the only causes which have hitherto stood in the way thereof have been general ignorance of the fact, and want of capital on the part of the few acquainted with it, who could have given their attention to the manufacture.

Both Tea and Coffee grow luxuriantly with little cultivation, and are very probably indigenous. The latter seems to have been common at an earlier period, as Sir William Jones speaks of Chittagong, in his letters, as a place "where the Hills are covered with Pepper vines, and sparkle with the blossoms of the Coffee plant." Tea is said to have been found wild lately among the more distant Hills, and plants have been sent to Calcutta for examination, but I have never myself met with it.

The cultivation of Tea was first introduced by Mr. Seonce, late of the Civil Service, who imported seed from China, and established an experimental Garden about fifteen years ago. When I first arrived at Chittagong in the year 1854 the Garden had passed into other hands, but was still in good order, and contained not only Tea and Coffee, but various kinds of spices, Cinnamon, Pepper, Allspice, &c.

Soon after it became neglected, and the fences being destroyed, overrun with cattle, which, of course, did much damage. Nevertheless the Tea plants survived, and many of those originally planted remain to the present day.

The Garden is now in the hands of Mr. Fuller, who has about twenty-two acres under cultivation, and the produce, of which he has sent me a sample, is, in my opinion, superior to any Indian Tea I have met with. A sample moreover was forwarded to England last year, and examined by Messrs. Twining and Company, a copy of whose Certificate of its good quality is annexed. This sample consisted of leaves coarsely and unskilfully prepared, and it is therefore probable that, when cultivated and manufactured with greater care, Chittagong Tea will obtain a high value in the market.

I have not seen any of the Coffee produced in Mr. Fuller's Garden; other specimens I have met with have been good though cultivated with little care. The Coffee plant requires three years to bring it to maturity, and will not flourish without shade.

With reference to the expense of cultivation, I am informed that Coolies can be obtained for Rupees 5 per mensem and boys for Rupees 3. Any amount of labor is probably procurable as large numbers of Coolies constantly emigrate to Akyab, who would doubtless prefer remaining in their own District could they find remunerative occupation. At present the cost of clearing an acre of land is Rupees 90.

The cost of watering would be small, as the rains are very heavy and often last from April to November, so that, for a large portion of the year, there would be no outlay on that score. The soil is generally light and sandy, mixed with clay, and would probably require manuring.

With the cultivation of Tea and Coffee the manufacture of starch might, I think, be advantageously combined.

The common jungle of the District is a species of Ginger commonly known as "wild arrowroot." The leaves of this plant die off at the end of the rains, and its tubers are found during the cold weather abounding in starch which they yield to slicing and maceration in water. Starch is largely used in manufactures in England, and I believe a large quantity of the Rice exported from Arracan is converted into it. I think, therefore, that starch imported in large quantities would find a ready sale.

The supply of the wild arrowroot is inexhaustible, and if removed at the proper time of year would furnish material for a simple and valuable manufacture, while at the same time the growth of a noxious jungle would be checked.

The dead leaves and refuse of the manufacture would also serve to manure the ground devoted to Tea planting. I would strongly recommend that the manufacture of starch from this plant should be made the subject of careful experiment during the ensuing cold weather.

CERTIFICATE.

"We tested your sample of Tea and found it, A 1., such a Tea, if properly packed and brought over here as an article of merchandize, would command a high price, and especially if it were rather better manipulated and not quite so high dried. The flavour, however, is excellent, and the infusion is very bright and clear."

R. TWINING AND Co.

No. 215, STRAND,
The 1st July 1861. }

From J. E. BRUCE, Esq., Assistant Salt Agent, Chittagong, to W. G. YOUNG, Esq., Officiating Commissioner of the Chittagong Division,—(dated the October 1862.)

SIR,—IN reply to your letter No. 350 of the 18th current, I have the honor to furnish you with all the information that I possess regarding Tea and Coffee at this Station.

2. From Coffee plants which I have seen in private Gardens and in the Coffee Company's Garden at this Station, which was formed in 1842, I am quite satisfied that Coffee will grow well here if planted in suitable soil.

3. The plants in private Gardens grow luxuriantly and produce large crops. Those in the Company's Garden grow also, but not near so large. They also produce well according to their size, but the land on which they were planted was little else than sand; consequently considerable expense was incurred for watering, and large quantities of manure trees were grown for shelter; under these trees only did the Coffee plants continue to grow and produce Coffee. Mr. Sconce and myself were the only persons of the Company who took any interest in the Garden. He could not always look after it, and for four and a half months I was out of the Station at the manufacture of Salt. I have no doubt that Coffee planted on lower ground would prove a profitable undertaking, provided the revenue is not too high.

4. The Company's Garden was given up by all the Members but Mr. Freitas and myself; but as neither of us could give our attention to it, it was at last abandoned altogether, for the rent was very high, being Rupees 14 a year for a very small piece, and no remission could be obtained, though not a fifth part of the original grant was under cultivation, and watering, manuring, weeding, and fencing were very expensive.

5. One Mr. Hogg commenced up this river at Rangoneah on a large scale, but he died, I believe, within the year, so that no conclusion could be drawn from his experiments.

6. Some thirty years ago or more a Dr. Chapman planted Coffee on a spot at the back of the lines, and this I learned by having myself gathered the Coffee berries in the jungle about fifteen years

7. They were very small and were not ripe when I got them. I have never been again to look after the plants, though I think I can easily find the spot.

8. I forgot to state that a maund of one Coffee was sent to England and pronounced good, but not properly picked and carelessly packed.

9. Mr. Sconce planted a Garden of his own entirely at his own expense, in which he put many Tea plants also; in our Garden then were only three Tea trees. Mr. Sconce's Garden is now known as Elson's Garden, and is in Mrs. Fuller's possession. From this Garden Mrs. Fuller has for some three years past produced Tea which she manufactures at this place (with untaught Natives), some of which taken home by Mr. Radcliffe, (lately Judge of this Station), was pronounced by Twining and Company to be excellent Tea, as good as China, but made very badly. I am unable to state what is the produce per acre. In my opinion Mrs. Fuller's plants are planted too close, being so close as to entwine their branches.

10. As a proof of the hardness of the Tea plant I will state two cases; first, the three plants which were in the Company's Garden were excluded from the fenced portion, and left entirely unprotected for four years; the cattle constantly eat them down, still they did not die till the fifth year.

11. Second, the late Mr. Ince planted a Garden with Tea and Coffee, from which, after the third year, he made some Tea, but whether good or bad I cannot tell. These Tea plants were planted on low land fit for Paddy. After Mr. Ince left this the Garden fell into Native hands, and some years ago the holder of the Garden cut the Tea plants down to the ground and sowed Paddy. I happened by chance to go to this Garden that year, and I saw large green leaves coming up amongst the Paddy. On looking closely at them I could not recognize them as any kind of the to me known jungle, though they were at least six times as large as any Tea leaves I had ever seen; in all else they were exactly Tea leaves; they were growing out of water, a span deep, and on personally examining them I felt the old stump and root, and convinced myself that these leaves were growing from these stumps; they grew up, and last year they were healthy plants with plenty of the usual sized leaves and some seed.

12. I have a plant in my Garden that has been broken down, barked by goats, and left utterly uncared for for fifteen years at least, and it is still alive, but has few leaves, and the flowers never come to seed. I have tried to restore it, but failed: however it is still alive.

13. The causes which stand on the way of the cultivation are, first, the want of enterprise in the inhabitants generally; second, the monied men of this District are either Merchants, Zemindars, or Ship-owners. The former never think of cultivation at all; the second never encourage experiments of any kind, but grind down their Ryots for their rents, and the Ship-owners look to the water, not the land, for their profits. The

Ryot thinks Rice the most profitable, and he can at least live on it, and has as little means as inclination to try experiments. One great curse to this Station is the immense number of cattle kept mostly by people who have not a yard of land to graze them on; they are allowed to feed anywhere and everywhere. I have had my new fences cut and cattle let in, but to prove who did it was impossible.

14. In conclusion, I think that the experiments which have been made have been in unfavorable places, and have tended to deter rather than encourage further experiment.

15. I reared Tea plants from seed last year in gumlows, but on being transplanted at the beginning of the rains they lived, some a month, others more, and the last of them died last month, from which I conclude it is better to sow the seed where the plants are to grow. Two years ago the same thing happened, though I took care of them both years.

16. I sent some Tea and Coffee plants by Sea to one Mr. Portious at Akyah, and he acknowledged receipt of them; the former in fine healthy condition, but the latter several dead and drooping. I never heard what became of them.

17. In all cases the Coffee seems to require shade, and the best is a fast growing tree called the Chuckwah; it is not too thick in its foliage, and very quickly arrives at a size to shade thirty feet diameter, and ultimately sixty to sixty-four feet diameter.

18. In our Coffee Garden twenty-eight Coffee plants would grow under the shelter of one of these trees, the greater part to the north of the Trunk. The Coffee plants grow to about seven or eight feet in height; those planted eight feet apart did not meet, those at six feet apart did meet.

19. Will you allow me to add that Teak and Mahogany trees grow well here. The difficulty of getting Teak seeds to germinate is easily got over. I have produced thousands of seedlings at the Sudder Ghaut by simply spreading soil from the bottom of a creek under the trees, and allowing the seeds to remain till they spring up themselves. They fall in November and December, and spring up about the middle of the rains.

20. I planted the Teak (four trees which produced the seed) in 1841 or 1842; they were then about three inches high; seedlings obtained from the Botanical Garden, Calcutta. The three now average thirty-seven feet high to the very top, and five feet eight and a quarter inches circumference at two feet from the ground.

21. I planted six seedlings, one died, one was broken off at the ground by a cow, the others grew up; three years ago one was blown entirely down by a heavy North-Wester; it has not died, but is growing in that position.

22. If the Native Landholders could be induced to grow these instead of the vile useless maddar

and other trees, they would become very valuable after a number of years; but I fear they will continue to grow firewood rather than look ahead to the benefit of posterity.

23. I will, with the hope of its being acceptable, make some remarks about Cotton which I have grown in my Garden on the top of my Hill.

24. I received some seed from the Collector (Mr. Ward) in November last, with instructions to sow in March. As that was a long time to wait, I thought the seed might spoil, so I at once sowed some on the 4th of November last, and in four days the seed had vegetated; they were allowed to grow in the seed bed till the middle of December, when somewhere transplanted. Of those transplanted 12 per cent. died, the rest lived. It is to be remarked that the soil is light soil, and no manure was applied before sowing, but some rotten horse dung was used when the plants were transplanted. Not the least care was taken of them, either those transplanted, or left in the seed bed. They were not weeded nor dug round, nor even watered once for four and a half months, as I was away in the Mofussil.

25. In March last one of the seedlings in the bed produced two pods, but after that none of them looked healthy. However the first rains in the end of March evidently put new life into them, and in the end of July they began to yield Cotton. The plants shot up long and thin, and had from two to four stems each. I carefully collected the Cotton, and I now send you a sample of it with the seed.

26. By examining the seed you will see that there are three different kinds; one kind is covered entirely with a coat of green velvet down, another is partially covered with the same, but having a clean belt round the middle, and none are quite without the green down.

27. I have observed the clean seeds had the longest fibre that entirely covered with the green down the shortest, and that, partly clean and partly covered, had fibre of intermediate length. This leads me to suppose that this last is a hybrid betwixt the other two.

28. I have no knowledge of the original Cotton, of which I received the seeds (it was stated to be New Orleans), therefore cannot say to what extent it has deteriorated; but as the sample was left entirely to nature, grown in high dry land without watering during the whole of the dry season, perhaps some conclusion may be drawn by experienced persons of the probable results of careful cultivation on suitable soil in this District.

29. I may further remark that there was a Garden established in Chittagong. So far as I can recollect, betwixt 1836 and 1840, it was on the ground near Mr. Ward's dwelling, on the left hand side of the road, where the old brick building is in ruins, and where Rice is now growing.* This used to be called the Company's Garden. I saw Cotton plants growing in it, and I know it produced very large purple sugar-cane.

These obtained great favor with the Natives, and several applied for and obtained cuttings. These produced good cane, and I have seen them sold in the Buxee's Haut.

30. I was in no way connected with the above Garden, and cannot give the slightest information regarding the experiments made on their results; but as it was said to be a Government experiment, probably the Collector's Office will be able to produce some information on the subject.

31. A gentleman of the name of Price, generally known as Captain J. Price, tried Hemp here many years ago, when Mr. Skipwith was Judge at the Station, and the produce was good, but rather short in fibre. However Captain Price was a Sailor, knew nothing of cultivation, and went the most expensive way about what he did on light sandy land; the loss was considerable in comparison to the small experiment made by him.

32. Linseed is grown in this District to a small extent for the seed only; the seed is well scattered that the plants may branch and produce seed. It is sown in the cold season, and seldom rises to more than a foot high. It is never cultivated for the fibres. A considerable quantity is to be produced on the Islands of Halteuh and Duckin Shubazpore.

33. I have tried to induce some of the Zemindars in Nezampore to sow it thick, and towards the end of the rains, or in some moist spot, shewing them cloth produced from the plant; but I doubt whether they really believed that the cloth they were looking at was the produce of the "Teeace" as they call it. However none of them ever tried it that I know of.

34. There is a wild semi-creeper grows abundantly here, called by the Natives Taree, the pods of which are used by the Native Shoe-makers for tanning leather. It is somewhat like the South American Sumach. This last plant, which is so much valued for the fine soft light colored leather which is tanned by it, grows well here. I have several large shrubs of it in my ground. I send a little of the Taree pods, but they are three or four years old.

35. Cocoa and Nutmegs have been produced on the ground where I live. They were grown by my late father-in-law, Captain Marquid. The May gale of 1819 destroyed all the Nutmeg trees but one, which is still growing, but unfortunately a male tree. The Cocoa trees died after bearing fruit for four or five years, I believe, from a want of knowledge how to take care of them.

36. The Clove tree, the black Pepper vine, both produced fruit here. A tree of the former used to grow at the Revd. Mr. Johannes', and may be alive still; I have gathered Cloves from it, and Mr. Seones had the latter in his Garden producing fruit. Cinnamon also grows here as a tree, but has never been tried by cutting down to produce shoots from which the Cinnamon of commerce is taken. I have a tree in my Garden which produces seed. Mrs. Fuller's Garden has also one or two of these trees in it. It grows wild in the Hills here of an inferior kind; I send a piece of the wood; the Natives call it *Tendel*.

Extract from the Register of Waste Lands, absolutely the property of Government, which are available for grants.

Number of the Plot or Tract.	Pargannah, Thannah, or other Sub-Divisions in which situated.	Boundaries of the Plot.	Estimated area of the Plot in Acres.	Actual area.	Distance from Sudder Station of District and means of communication with it.	Remarks giving a description of the land, its natural features, soil, cultivation for which it appears adapted, advantages or disadvantages as regards a supply of labor, communications, and any other information available.
1	Thannah Ramoo	...	A. R. P. Y. 10,617 0 23 26½	A. R. P. Y. 10,617 0 23 26½	Three days.—There is communication with the Sudder Station and other important parts of the District both by sea and land.	
2	" Tek-naaf...	The boundaries cannot be given as the lands do not form one block.	3,323 0 1 19½	3,323 0 1 18½	Six days.—Ditto ditto.	The greater part of the land is hilly and jungle, and the remainder is road-way, pit, and nullah. The soil is "Doahshla," i. e., sand mixed with clay and possibly fitted for the cultivation of Tea and Coffee. Labor is not plentiful on the spot, but Coolies can be taken from the Town if one or two months' wages be advanced.
3	" Chuckeriah	Ditto	4,554 1 18 6½	4,554 1 18 6½	Two days.—Ditto ditto.	
4	Chittagong, Thannah.	Ditto	2,239 1 7 2½	2,239 1 7 2½	About two hours.—There is communication with the Town by land.	
5	Pharce Rangoneeah...	Ditto	867 3 29 5½	867 3 29 5½	One day.—There is communication with the Sudder Station and other important parts of the District both by water and land.	

The above are the surveyed Waste Lands. Besides these there is a vast tract of unsurveyed Hills available for grants.

J. D. WARD,
Collector.

CHITTAGONG COLLECTORATE, }
The 22nd November 1862. }



SECOND SUPPLEMENT TO The Calcutta Gazette

SATURDAY, DECEMBER 20, 1862.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE will henceforward be published, weekly or twice a week, according to circumstances, containing such Official Papers and Information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

Non-Subscribers to the GAZETTE may receive the SUPPLEMENT separately on a payment of six Rupees per annum if delivered in Calcutta, or twelve Rupees if sent by Post.

No Official Orders or Notifications, the publication of which in the GAZETTE is required by Law, or which it has been customary to publish in the GAZETTE, will be included in the SUPPLEMENT. For such Orders and Notifications the body of the GAZETTE must be looked to as heretofore.

Government of India.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Vic., C. 67.

THE Council met at Government House on Wednesday, the 17th December 1862.

PRESENT:

His Excellency the Viceroy and Governor-General of India, *presiding*.

His Honor the Lieutenant-Governor of Bengal.

Major-General the Hon'ble Sir R. Napier, K. C. B.

The Hon'ble H. B. Harrington.

The Hon'ble H. Sumner Maine.

The Hon'ble C. J. Eschine.

The Hon'ble W. S. Fitzwilliam.

The Hon'ble D. Cowie.

The Hon'ble Rajah Deo Narain Singh Bahadoor.

The Hon'ble Rajah Dinkar Rao Rugonmuth Moontazim Bahadoor.

The Hon'ble R. S. Ellis, C. B.

The Hon'ble A. A. Roberts, C. B.

RULES FOR THE CONDUCT OF BUSINESS.

His Excellency the PRESIDENT moved that the Report of the Select Committee appointed to consider all proposals to alter or amend the Rules for the Conduct of Business be taken into consideration. His Excellency said that he wished to make a few observations in explanation of this Report and the amendments it proposed in the Rules for the Conduct of Business, as he understood that some misapprehension and mistakes existed as to the intent and effect of the amendments which the Council had recommended to be

adopted. Those misapprehensions had not found expression in that Council; but occasions might arise in which it might be necessary to remove public misapprehensions which had not found an echo there, and the present, he considered, was one of those cases. For it was manifest that most serious prejudice to the interests of the country might arise if mistaken views of measures adopted by that Council, or as to the constitutional position of the Council to which Parliament had delegated the duty of legislating for India, were permitted to exist, more especially if misapprehension existed as to the motives and intentions of those to whom the duty of Government was entrusted. He considered that it was the more necessary for him to notice the mistakes that had been made, because they appeared to have arisen from the meagerness and insufficiency of the statement which he had made in laying the Report on the table. But in truth he (the Governor-General) was well aware of the trivial nature of the changes made in the Rules, and he knew also that the other Members of the Council were equally aware of the nature of those changes. It appeared however that he had not sufficiently considered that others were ignorant of the real state of the case, nor the temptation to speculate on the relations of the Council which that ignorance presented. The public had been told that this Report was proof of a design, or a foul conspiracy, on the part of the Secretary of State and the Governor-General to deprive the Council of some part of its privileges, and to curtail its authority. It was difficult to know how to deal with statements of this kind. If he dealt with them seriously he might be open to the imputation that he had been led into taking undue notice of a piece of harmless pleasantry. But if no notice were taken his silence might be construed into an assent to the truth of a statement involving charges not lightly to be treated.

He felt, therefore, on the whole, that the less objectionable course was to notice the charges. It would be admitted by all candid persons that when the Council, or a Committee of the Council, was engaged in framing or amending Rules for the Conduct of Business, that was not a time when the question as to the best constitution of the Council could be properly raised, or the question whether the constitution given by a Parliament was the best that could be framed. Whatever opinion might be formed on those points, the Rules must necessarily be framed in conformity to the constitution as it existed, and not to the constitution as it might be altered. He would enquire what proof there was of a conspiracy between himself as Governor-General and the Secretary of State. The first recommendation of the Committee was that the Governor-General should have authority to direct the publication of a Bill, though no vote had been previously taken from the Council on the motion for leave to bring it in. The charge of conspiracy, in respect of this recommendation, rested on the assumption that this power was an innovation, or a departure from the existing practice, and that this innovation or departure from existing practice had been adopted on the recommendation of the Secretary of State. The Council would observe what foundation there was for these assumptions. The question had arisen before the Committee, how Bills should be dealt with when the ordinary sitting of the Council was suspended. The same question had been considered when the Rules were first framed, and the original Rules accordingly provided that a "Bill" may be sent to the Secretary when the Council "is not in Session, and the Governor-General in Council may order its publication, together with the Statement of Objects and Reasons which accompanies it. In that case it shall not be necessary to move for leave to bring in the Bill, and if the Bill be afterwards introduced, it shall not be necessary to publish it again." Those Rules had been transmitted to the Secretary of State; and in order to prevent misapprehension, he (the Governor-General) would state that that was done in the ordinary course of business, and before he assumed Office. The Secretary of State observed that the Rule which he had read apparently infringed the privileges of the Non-Official Members, and placed them at a disadvantage in relation to the Official Members. The objection was felt to be perfectly sound, and the inference was that the Rule ought to be cancelled, but the Committee had to consider what the practical effect of having no Rule of the kind would be. One of the Rules provided that the progress of Bills introduced into the Council should ordinarily be suspended for three months, in order that they might be published. This Rule had been adopted in order that Bills might be circulated and published in all parts of India, and that all the various authorities and inhabitants might have opportunity to represent their objections to every proposed measure; and having regard to the great extent of the country, he (the Governor-General) did not think the period to be excessive, but considered that it ought to be strictly adhered to in all except special cases. But if it were adhered to, and no Bill could be published till leave had been moved for to bring it in, then it would be necessary either to call the Council together at great incon-

venience, in order to deal with motions which, in nine cases out of ten, would meet with no objection, or else to adopt the principle that all Bills should be delayed till a Meeting of the Council for general legislation, the result of which would be a postponement of Bills introduced at one sitting till the following year. The Council had therefore thought that, in order to obviate inconvenience to Members, and to the public, the Rules for the publication of Bills should be adhered to, but that the publication might be permitted, as before, when the Council were not sitting. The only difference in the new Rule was the substitution of the Governor-General for the Governor-General in Council, and the reason for that was that it removed the existing anomaly of an advantage to the Official over the Non-Official Members. This Rule, it was supposed, would be less objectionable than the former one, but thanks to the entire accord which existed, and he hoped would always exist, between him and his advisers, the alteration would, in fact, amount to a distinction without a difference. Such was the ground on which the charge of conspiracy had been made in respect of this Rule. Another ground for that charge had been the elimination of the term "Session" from those parts of the Rules in which it occurred. He scarcely understood on what theory the independence of the Council was supposed to be compromised by this change. That theory must imply that the power to prorogue, which exists under some constitutions, is a power reserved in the interest of the body which is subjected to its exercise, so that a body which is always at hand, and may be called together at any time, is less independent than a body that is liable to prerogation! This was a novel doctrine, and it might be asked how it would act in the present Council. In laying the Rules on the table, he (the Governor-General) had adverted to the occasion when the High Court was instituted. If he had been debarred by the Rules of the Council, or by his own act, from calling the Council together, he must have exercised the power vested in him by Section 23 of the Councils Act, and passed an ordinance to meet the difficulty. That was a power, like every other power entrusted to him by Parliament, which he should exercise whenever he thought it necessary to do so. But he was desirous, as far as possible, of dealing with the legislation of the country only with the help of those Gentlemen whose assistance Parliament had given him, and whose criticisms and suggestions were always of the greatest possible use. Then, as to publicity being given to the proceedings of the Council, it never yet had been, and he hoped it never would be, his lot to preside over a Government which had not more to gain than to lose by publicity. He was sorry to have thus to trouble the Council with these observations; but it was important to remove the misapprehensions to which he had adverted. If confidence were shaken in that Council, or in the Government, the evil would be far greater than would arise from any measure that either might adopt.

The Hon'ble Mr. Cowie said that, irrespective of the satisfactory explanation which his Excellency had given of the alterations in the Rules, he felt bound to repudiate the charge that he, as an additional Member of the Council, had forfeited his independence by continuing to hold his

sent under them. He believed that, under those Rules, he had the right of introducing any measure into the Council, and he believed that it would receive courteous attention and impartial consideration from the President and the Members. Further, he had the right of expressing an opinion, and of voting on every measure which others might bring forward. That was the position which the late Lord Canning had explained, when he did him (Mr. Cowie) the honor of offering him the seat in the Council, and with that position he was content. He had considered that he was only a Member of the Council of the Governor-General for the purpose of making Laws, but he found, from the Despatch of the Secretary of State, that he was a Member of the Council of the Governor-General, and he must express his acknowledgments for the compliment.

The Hon'ble Mr. FITZWILLIAM stated his concurrence with the sentiments expressed by the Hon'ble Mr. Cowie.

The Hon'ble Mr. HARRINGTON said that the Rajah Dinkar Rao had expressed to him his satisfaction with the alterations which it was proposed to make in the Rules, and which he thought would identify the ordinary and the additional Members, and place them on a more equal footing.

The Motion was put and agreed to.

HIS EXCELLENCY then moved that the amendments proposed by the Select Committee be adopted.

HIS EXCELLENCY said that, as there was an obscurity in the new Rule 29, he would move that it should stand as follows:—

"Any Member may move that a Bill which has been amended by the Council be re-published, and if the Council so decide, the President may order the Bill to be re-published for such period as he shall see fit."

The Motion was put and agreed to.

BREACHES OF CONTRACT BILL.

The Hon'ble Mr. MAINE moved that the Report of the Select Committee on the Bill relating to Breaches of Contract committed in bad faith, be taken into consideration. In making this Motion he begged to offer a few words on the reasons which had led the Committee to the conclusions of the Report, or, rather, he should perhaps say, on the reasons which had led himself, for it was possible, and, indeed probable, that different Members had reached the same conclusions by different routes. It would be seen that, in the Despatch from the Secretary of State for India, which was printed with the papers accompanying the Bill, the Secretary of State expressed a hope that the Bill would be withdrawn, and then intimated a doubt whether any legislative interference in commercial transactions, with the view of coercing one of the parties to a contract, could be productive of good. The language of the Secretary of State was not directly imperative, and, on the whole, for various reasons, the Committee thought it their duty to consider the possibility of amending the Bill, and if he individually might avow any other motive besides the wish that a subject of such great importance should meet with full discussion, it would be the desire that no measure introduced by the late Mr. Ritchie should be lightly thrown aside. It would be better, first to consider the Bill apart from the Despatch of the Secretary of State. The Council would remember that Mr. Ritchie intro-

duced it avowedly as a measure of compromise. He inferred, from the language which Mr. Ritchie used in the debate on its introduction, that he would have preferred a Bill like that brought in by the present Lieutenant-Governor of Bengal, a measure, that is to say, making breaches of contract criminally punishable, but more general than Mr. Beadon's Bill, which applied only to contracts for the delivery of agricultural produce. The Secretary of State, as was well known, announced his intention of disallowing the first Breach of Contract Bill, and hence Mr. Ritchie was compelled to confine himself to a Bill prescribing a proceeding of a Civil nature in point of form, but of a Criminal nature in respect of the penal consequences incurred by an unsuccessful defendant. He thought, however, it would always be found that, when you were dealing with a distinction so old and so universal as that which separated Criminal law from Civil, it was not possible to mix together the provinces of jurisprudence which lay on either side of the boundary, and that you would be obliged to take up a position on one side of the line or the other. It was his strong impression that, if the Committee had felt there was any use in amending the Bill, it would have emerged in a shape closely resembling that of the measure introduced by the Lieutenant-Governor, for, when they came to the examination of details, and attempted to put the machinery of Mr. Ritchie's Bill into working order, they would have found it defective in one respect, in the omission of provisions for sufficiently full notice to the defendant of the character of the charge brought against him. It would have been contrary to all principle, and, as it struck him, to one's most elementary instincts of justice, to inflict a penalty so severe as hard labour on a man who had not been amply warned, before the trial commenced, that he would be exposed to this consequence if he did not succeed in rebutting the accusation of fraud. No civilized nation, so far as he was aware, had ever relieved an accuser from the duty of giving this warning. A French Act of Accusation was a voluminous history, not only of the alleged offence, but almost of the whole life of the accused, and, in England, until comparatively recently, the law was so anxious that prisoners should come into Court with full preparation, that a large percentage of persons accused escaped scot-free for want of a precise description of the charge in the indictment. The Committee, therefore, if it had amended the Bill, had two courses open to it. Either it must have compelled the plaintiff, in such a proceeding as the Bill contemplated, to put into the pleadings a full account, with all particulars of mode and time, of the fraud with which he taxed the defendant or else it must have been provided that, whenever in the course of a Civil Suit for breach of contract it became clear that the question of fraud would be raised, the proceedings should at once be interrupted, and the accused bidden to attend on a subsequent day, with his means of disproof, if he had any. In the first case, the inquiry would differ only in name from a Criminal trial; in the second, it would be a Criminal investigation added on to a Civil suit. He had attempted to shew that legislation on that subject would necessarily, in the long run, turn out to be Criminal legislation, because it explained the stress laid by the Committee on the passage in the Despatch, in which

the Secretary of State objected to any inquiry into the motives of the defendant, and into the reasonableness or otherwise of his excuses for non-performance. It was scarcely necessary to point out to the Council that such an inquiry was, in fact, the great characteristic which distinguished the administration of Criminal Law from the administration of Civil Law. In the assessment of Civil penalties, no excuse could be listened to, if the suit were for breach of contract, the only question was, whether the contract had been performed: if it had not been performed, though even through the most unmerited misfortune, the full consequences of non-performance must follow without abatement. But, under Criminal Law, whether an act drew down a penalty at all, depended entirely on the motive with which it had been done; and he ventured to say that there was not one act of which Criminal Law took cognizance, which, if the motives of the actor shaped themselves in a particular way, or lent themselves to a particular excuse, might not become justifiable and even laudable. For those reasons the Council would not, he thought, fail to come to the conclusion that, when the Secretary of State objected to an enquiry into motives, he objected not only to Mr. Ritchie's Bill in its present shape, but in any shape it could possibly assume. Then came the question, how far beyond this did the objections of the Secretary of State extend. He understood the Secretary of State to object to all general Criminal legislation against breaches of contract. But comparing the language of this Despatch with that of former Despatches on the same subject, he did not understand him to object to particular legislation. He meant by particular legislation, legislation directed to the enforcement, by the authority of the Magistrate, of certain class of contracts, or of contracts between persons belonging to a particular class. There were, he believed, samples of such legislation in the jurisprudence of every country. In England there was the Statute, or rather the series of Statutes, regulating the relations between employers and laborers, and the Statute which applied to Merchant Seamen. In India they had the Calcutta Artificers' Act, and there had been many laws and regulations of that kind which had expired or had been repealed. In all this legislation there seemed to be little question of motive. Breaches of contract by persons falling under these Statutes did not appear to be criminally punished on account of their peculiar immorality, for it would be absurd to maintain that a breach of contract by a mariner is more immoral than by anybody else; but, as he supposed, the legislator took his stand on the interests of society, and declared that society could not afford to allow these particular contracts to be lightly broken. Of course, such legislation must always be sparingly resorted to, and only on the clearest grounds, both because it was exceptional, and because it rested on a ground, (the interest of society,) which had always furnished the greatest number of pretexts for tyranny. But still, in spite of all its disadvantages, he confessed that he infinitely preferred particular to general legislation on these subjects. Of course, general legislation had advantages of its own. If you wish to conceal your true object you can do it much more easily by general legislation than by particular legislation. If you wish to avail yourself of broad general propositions about the

duty of punishing fraud, wherever it may be detected, propositions which it was extremely indignant to deny, and extremely dangerous to affirm, you can call them to your aid much more effectually when you are meditating general legislation. But in particular legislation you have this compensating advantage that you know where you are going to. You can measure the consequences of the steps you take, and you can retrace them if they disappoint you. If he felt himself called upon, which he did not, to raise objections to Mr. Ritchie's attempt at general legislation, he should rest his doubts less on the grounds urged by the Secretary of State than on grounds which it was not easy to describe in precise language. He should deprecate such legislation less on account of results he foresaw, than on account of results which he did not and could not foresee. Knowing, as they all did, that all the modern progress of society seemed to be intimately connected with the completest freedom of contract, and in some way almost mysteriously dependent on it, he should shrink from tramping with so powerful an instrument of civilisation; and if he were unfortunately compelled to propose a measure like Mr. Ritchie's, he should feel like a physician employing a remedy which might indeed cure the disease, but which might also revolutionise the constitution. There were no such dangers as these attending particular legislation. In that, as you must always be aware that the measures you contemplate are irregular and exceptional, you are likely to assure yourself before you interfere, that a case has been established for interference. When you do make up your mind to use your remedy you can exactly proportion it to the evil which has to be removed; and as the sphere of its operations would probably be limited, you can judge and observe of its working. It was not for him to say what legislation of the kind he had been describing was called for by the circumstances of particular localities in India, or by the practices and habits of particular classes, but if exceptional measures had to be resorted to, and they were of that nature, he should think that they could secure what, he doubt, was one of the most efficient means of moral education—the exact performance of contracts—without disturbing principles and distinctions which had been established for so many centuries, and which seemed to strike root the deeper as the world grew older.

The Hon'ble Mr. EAMES said, that the Report bore his signature with those of others, and it was not, of course, his wish to oppose its adoption. At the same time, as the recommendation of the Report was that the Bill to which it related should be withdrawn; and as he had concurred, not many months ago, with a majority of the Council in thinking that the Bill ought to be sent to a Select Committee, in order that it might be made the foundation of an enactment, it seemed right to take this opportunity of stating shortly the circumstances under which he now acquiesced in a different course, and the extent to which his own views remained unchanged. The discretion of the Committee, in dealing with this Bill, and the position of the Council in regard to it, had been affected since the last discussion of the measure, by the receipt of the Despatch, to which reference had already been made, from the Secretary of State. The tenor of that Despatch was such that it had not only materially affected

the deliberations of the Committee, but had, of necessity, determined their proposals. Such being the case, it was impossible to make a statement on this subject without alluding to that communication. His allusions to it would be made with a proper respect for the authority from which it emanated. In considering this Despatch it appeared to him that one important point to be ascertained at the outset was, the extent to which it really dealt with the great problem which, in one form or another, had repeatedly, during the last two years, been discussed by them, and the extent to which it dealt only with one attempt to affect a partial solution of that problem, or, in other words, and in spite of the warning they had received against general propositions, how far the arguments of the Despatch were directed against the principle which underlay all the special measures and projects of law that had been before them, and how far those arguments were confined, so to speak, within the four corners of this particular Bill. Now the principle which lay at the root of the several recent projects for legislation might, as he understood it, be stated in some such words as these.—That acts of fraud, or if the technical definition of "fraud" were objected to, of bad faith done to the known wrongful injury of others,—that such acts, so committed in breach of a contract, may rightly be punished as Criminal offences, like acts of a similar kind committed in the making of a contract, or on other such occasions. This seemed to be the broad principle which lay at the root of the whole question, and only if it were assented to would the next consideration arise—whether it was desirable and prudent to make legislative provision for the punishment of such acts as offences. Only after both of these questions had been decided affirmatively would it be necessary to give attention to subsidiary points relating to the special form of Bill required for this purpose, and the various details of such Bills. Indeed, were it not contrary to recent experience to do so, one might have assumed the willingness to enter on the minor details implied acquiescence in the larger principles. In reading carefully through this Despatch, then, in order to determine what portions of it must be treated as objections to the general principle just stated, and what portions were merely objections to provisions peculiar to this Bill, it seemed to him that three portions only treated directly of the former—namely, the 5th paragraph, a portion of the 9th, and the concluding portion of the last; and even these did not seem to be very decided. The 5th paragraph, for instance, merely seemed to raise a doubt whether that which it described as the principle of the Bill could be universally applied in its full extension, and whether there was any precedent for such an application of it. But it was obvious to remark (without enquiring how far the supporters of the Bill would go in applying it) that there are many principles which are confessedly just and right, and which, nevertheless, cannot in practice be applied, everywhere and at all times, without exception. And further, with all respect for the observation which had fallen from his Hon'ble friend if no principle could be true unless it had been embodied in some existing Code, there would be an end of improvements in legislation. The next paragraph to which he had referred was paragraph 9. That seemed at its commencement to suggest merely the great difficulty of defining

"fraud" or "bad faith" and of determining questions regarding it. There was no doubt as to the difficulty. Had the question not been one of the most difficult in Criminal jurisprudence, it would, no doubt, have been satisfactorily settled long ere this. But the Council, he believed, would not recognise the mere difficulty of any attempt as an adequate reason for not making it. A passage followed in the same paragraph which had been quoted by the Select Committee, but to which his Hon'ble friend, he thought, had given a construction wider than it should be made to bear. The words of the Committee are, that they thought the enquiry there referred to imperatively required by the principle of the Bill before them and rightly. But it did not appear that the Secretary of State, in objecting to enquiries into motives, was alluding to enquiries in Criminal cases, for which the Bill did not provide. The only other paragraph to which he had alluded was the latter portion of the last. In regard to this, he might observe that it was expressed in such guarded terms that he thought, if only a fair latitude of construction were allowed, hardly any Member of the Council would hesitate to adopt the words as his own. It could hardly be said, therefore, that the arguments in the Despatch, as affecting the broad question before them, were either direct or emphatic. They were numerous and decided, no doubt, as regarded this particular Bill and its details. Most of them are recapitulated in the first portion of this concluding paragraph. But he believed he might say, with truth, that all of them had been urged on the attention of the Council before they decided that the Bill should be referred to a Committee. If, however, the Committee had not in this way many new arguments to consider, they had at least the assurance that these arguments had been held to be fatal to this Bill or any modification of it, by an authority without whose concurrence it could not, even if passed, continue to be law. For this reason they concluded that it would be useless to proceed with the Bill; and for this reason—and this reason only—he had concurred in that recommendation, although his own views remained unaltered. In the course of this discussion they had been reminded that mere general assertions of principles were apt to be of little avail. There were occasions, however, on which it was most important that general principles should be openly re-asserted. This seemed to be such an occasion. During their former discussion it had been suggested that it was contrary to the spirit of modern legislation to increase the severity of the Criminal law. He had then ventured to dissent from that view. It was, indeed the tendency of recent legislation to mitigate the severity of punishment; but it did not seem to be equally its tendency to diminish the number of offences. On the contrary, as he formerly urged, when the standard of morals rises among a people, the number of acts is increased which the public conscience condemns, and which the public feeling will support the law in punishing. As commerce expands the danger is more clearly felt of offences against credit, against commercial morality, and against general trade; and that this is felt to be so practically in England may be inferred from recent Acts relating to frauds, to breaches of trust, and to reckless insolvents. His views on these matters were of little importance, but his allusion to them had elicited an expression of concurrence

from their lamented Colleague, Mr. Ritchie, whose opinions had a value altogether their own; and another Member of the Council, now no longer present, Mr. Laing, had taken the same opportunity of expressing strongly his sense of the value of this question in its relation to the moral sense of the people. He had urged that it was unwise to import into India nice legal distinctions, which served rather to puzzle than to enlighten or satisfy the consciences of simple men. And he had quoted in illustration of this argument an instance to which His Honor the Lieutenant-Governor likewise had more than once referred, that the law ought not to lay down that it was right to punish fraud if you could prove that the intention to defraud originated five minutes before a man signed a contract, but wrong so to punish if he could prove or raise a presumption that the intention originated five minutes later. Mr. Laing urged that subtle distinctions of this kind should not be encouraged, but that more weight should be given to the broad maxims of common sense and natural equity. This seemed to be just. It was important that the voice of the law on these points should be clear; that its provisions should be brought, as far as possible, and as fast as possible, to support the plain rules of honesty, and that it should be felt to restrain all men from immoral practices in connection with the Civil contracts, and to hold no man free to recede from his compact to the known wrongful injury of his neighbour, merely because he could not abide by it without some loss or inconvenience to himself. These were some of the considerations which made him, while acquiescing, under the circumstances, in the Report of the Select Committee, desirous to make it clear that his own views remained unchanged. He trusted that it was so also with others; for an indication that the convictions and desires of the Council still tended in the direction of an amendment of the general law, would be advantageous in more ways than one.

The Hon'ble Rajah DINKAR RAO said, that he had already objected to this Bill when it was introduced. The subject in the second paragraph of the Select Committee's Report (relative to the Despatch of the Secretary of State) was of great importance. There was no necessity for such a separate Act as the present, and it was desirable to withdraw this Bill as recommended by the Committee.

The Hon'ble Mr. COWIE said that the Report of the Select Committee on the Contract Bill was, with great propriety, drawn up in such a way that it could be conscientiously signed by all five Members, but as one of them he might be allowed to record his sincere regret at the very narrow ground to which the Secretary of State's Despatch had limited the Council in that matter, and he expressed a hope that the Executive Government would, by argument and reasoning, prevent that Despatch being treated as final. He avowed himself an advocate of a Contract Law which should treat a fraudulent contractor, whether he be the employer or the employé, with the same stern justice which modern legislation now awarded to the fraudulent bankrupt and the fraudulent trustee. An esteemed friend, who knew much more of India than he ever should himself, had told him that such a Contract Law could not be worked in the Mofussil, because the Courts were not competent; in other words, that

juvenile Magistrates and aged Sudder Ameens were not equal to the nice task of discriminating between intentional fraud and accidental or unintentional liability, or of defining where accident ended and Criminal fraud commenced. If that were so, which he, without Mofussil experience, was not competent to say, he thought the community of India, in calling for a Contract Law, were entitled, at the same time, to demand a great improvement in the Courts which would have to administer that law: and he hoped the earnest attention of the Executive Government would be given to those two wants. Such measures would not only conduce to the material prosperity of the country, but would add to the ease and comfort with which it might be governed.

The Hon'ble Mr. ROBERTS agreed with the Select Committee that, in the face of the Despatch of 9th June last from the Secretary of State for India, it would be neither for the Public interest, nor for the dignity of the Council, to proceed with a project of Law, which, if passed, would certainly be annulled in a few months, but he was of opinion that the Select Committee should have attempted to determine the exact effect of that Despatch on their own deliberations, and on the deliberations of the Council. There was no question of the power of Her Majesty to disallow Laws made by the Governor-General in Council, but it was extremely doubtful whether the Indian Councils Acts permitted of interference by the Secretary of State with the deliberations of the Council on questions pending before them. In the present case leave had been obtained, under the Rules for the Conduct of Business, to introduce the Bill to which the Secretary of State had objected; the Bill had been referred to a Select Committee, and was coming under discussion when, almost *in limine*, the Secretary of State expressed his disapproval of the principle of the measure, and requested that it might be withdrawn. That which had been done in the present case might be repeated on any other occasion, and, practically, the power of legislating for India would be transferred from this country to England. This did not appear to have been the intention of Parliament;—the restoration of the power of legislation to the Minor Presidencies; the extension of the provisions of the Act for making Laws and Regulations to the Bengal Division of the Presidency of Fort William; and the nomination of Non-Official Members, European and Native, to the Councils of the Subordinate Governments, and also to the Council of the Governor-General for purposes of general legislation, all seemed to indicate that it was the intention of Parliament to give full scope to legislation in India; to allow projects of law to originate out here; to permit free discussion and deliberation to those who, from local knowledge and experience, were the best judges of the fitness and applicability of the measures proposed; to leave it to them to decide whether such measures should be brought on the Statute Book or no, and simply to reserve to the Sovereign the privilege of disallowing any law if deemed necessary to do so. In his opinion there was nothing in the Indian Councils Act which permitted interference on the part of the Secretary of State with measures under discussion, and he (Mr. Roberts) thought that this point of privilege should be first determined, and that, in the mean

time, the Bill for Breaches of Contract in bad faith should remain in abeyance. He proposed to move an amendment to that effect.

The Hon'ble Mr. FITZWILLIAM said looking to the Report of the Select Committee, he agreed with them that, under the circumstances, it would be better, both for the public interest and the dignity of the Council, that the Bill should be withdrawn. He regretted, however, to find that the principle upon which the Bill was based was likely to be abandoned. Laws providing for the Criminal punishment of fraudulent breaches of contract occupied a prominent place in the judicial system of every commercial country in the world. Why, then, he would ask, is India to be deprived of them? Trading transactions could not be carried on with safety without mutual confidence. Surely, then, it could be only just to all parties to a contract that they should be protected against fraud on either side. His own experience in commercial transactions in various parts of the world had convinced him of the advantages of such laws, and he did not hesitate to express the opinion that it was to the interest of both Natives and Europeans that such laws should be enacted. It was not a class question; it was one in which every resident in India was deeply interested. Without some protection of this kind he believed that the great industrial interests of this country could not expect the assistance of European capital for their extension or development. He had heard it objected that such a Contract Law as provided in the Bill before us, might be used as an instrument of oppression. That could not be the fault of the law. If such was the case, it must be the fault of the administration of the law. And if those who had the administration in their hands were not competent for their duties, then he agreed with his Hon'ble friend, Mr. Cowie, that it was the duty of the Government to appoint Officers who were so. The Hon'ble and learned Member, Mr. Maine, not only saw difficulties in the way of legislation upon this subject, but he thought that there were still greater unseen difficulties to be contended with. He thought we had better deal with those before us; they were perhaps formidable enough. And he again repeated his opinion that a Contract Law, or, at any rate, the provision of Criminal punishment for fraudulent breaches of contract, was absolutely necessary for the interests of those who embark capital or supply labour for the promotion or development of the industrial interests of India. Without it European and Native capital will, he believed, be found unavailing.

The Hon'ble Mr. ELLIS said that he did not share in the regret expressed by the Hon'ble Members who had spoken at the withdrawal of this Bill, because he was opposed to the Bill itself, and should have voted against its becoming law. The objects which it had been supposed would have been secured by the Bill were an improvement in public morality in regard to the fulfilment of agreements and contracts, and the protection of European capital in India, and thereby the encouragement of European settlers in the interior of India. If he thought either or both of these objects likely to be secured by the Bill, he should share in the regret expressed at its withdrawal, but as he did not think the Bill likely to promote these important objects, he was satisfied that its withdrawal would not be an evil. He did not think that the large masses of the lower classes

against which this measure was directed would be improved morally by it, because they would not be slow to discover that this Bill, under the disguise of a Civil law, contained in regard to themselves, Criminal punishments, and they would perceive that the measure afforded protection, not to those classes which recent enquiry had shown required protection, but to a class numerically small but really powerful and self-reliant, who had already the legitimate influence due to their wealth and intelligence. To that class which the Bill in question, and all recent legislation on the subject of breaches of contract, was intended to assist, he did not think that the Bill would have proved beneficial. He thought that there were other methods than legislation by which any unfortunate class differences might best be set at rest. And although it might be contended that the latitude of the provisions of the Bill would not have been made use of injuriously, he had not so good an opinion of human nature as to believe that men could be entrusted generally with great power without danger, and he did believe that this Bill, if passed into law, would have afforded unscrupulous men means of oppression. It was for that reason that he rejoiced at its withdrawal, and that he did not share in the expression of hope that legislation upon this subject would be speedily re-attempted. In making these remarks he begged that he might not be misunderstood. He valued as much as any one the introduction of European capital, and Europeans of education and energy, into the interior of all parts of India. He had seen districts, which were in a languid condition, gain new life by the arrival of independent European settlers. Waste lands were speedily brought under cultivation; distant parts of the district were brought into relation with the more civilized central towns and stations; faults in the administration were pointed out and corrected, and the prosperity of the ryots kept pace with the rapid fortune of the settlers. These independent Europeans were able greatly to assist the Government Officials, for they acquired information regarding the administration which were often concealed from the Officials themselves. But it was because he had seen this, and because the laws, as at present existing, had been found sufficient to meet all the reasonable wants of this important class, that he would deprecate legislation on this subject, and the introduction of a measure such as that under discussion, for general application to all India. If any particular portion of India required special legislation, and he did not pretend to pronounce upon that point, it could be no reason for general legislation, which, to be necessary, and in the form taken by the successive measures which had been attempted and failed, must be based on the supposition that, natives in their dealings under agreement, are generally dishonest, and required to be coerced into honesty by extraordinary laws. Another objection that he had to this Bill, and this had been, he believed, considered a recommendation of the measure, was, that it was drawn on the model of Act XIII of 1859 (The Artificers Act.) There had been much difference of opinion as to whether this Act had been of beneficial effect or not. He was disposed to think that it had not proved of much use in that part of India with which he was best acquainted. He held in his hand a return of the operations of that Act during one year, and from this, it would appear, that in

the districts of the Madras Presidency, the number of cases disposed of under that law had not averaged more than forty in each district. But in two of these districts, where the decisions had been most numerous, namely, 297 in one district, and 115 in another, it had been ascertained that the provisions of the Act, and its interpretation had led to acts of serious oppression. The Inspector General of Police, who had had the best opportunity of becoming acquainted with the working and practical effects of this Act, had called the attention of the Government to the necessity of a more careful superintendence of the working of Act XIII of 1859. To him (Mr. Ellis), therefore, the fact that the Bill, which was about to be withdrawn, was framed on the model of Act XIII of 1859, was no recommendation. He must repeat, that the laws at present in force appeared to him to afford sufficient remedies for the evils of breaches of contract, and he did not think sufficient ground had been shown for additional legislation on this subject. It was a remarkable circumstance that, in the south of India, in the face of rapidly rising cotton prices, contracts for the supply of cotton during the past year had been honestly fulfilled in the midst of great temptation, and that there had been no call for special legislation in consequence of the general bad faith of the native producers, or their failure to fulfil contracts which left them only moderate profits, as compared to the large profits realized by purchasers. It was because he did not believe that this law was generally required, and certainly not in that part of India with which he was best acquainted, that he could regret the withdrawal of this Bill. In support of his opinion as regards the south of India he begged leave to read an extract from a letter he had received from a gentleman who, for many years, had entered into large contracts with natives for the supply of various kinds of agricultural produce:—"In Southern India, we have no reason to complain of the provisions of the law now existing for the fulfilment of contracts, particularly those relating to the delivery of produce. The practice here is to contract, not at a price determined, years previous to the time of delivery, but at the ruling rates at the time when the produce is ready for delivery. This prevents serious misunderstanding between the parties, and is an effectual protection to the interest of the parties to the contract—the producer has no inducement to attempt to evade his engagement, and the purchaser obtains the produce for which he pays the ruling price of the day, which must leave a reasonable profit since others engaged in the same trade are ready purchasers at such price. It would not be safe to enact a law by which the needy riot would be exposed to be tempted to enter into engagements which might, without any fault of his, deprive him of his liberty; injure the best interest of his family, and to some extent be a social evil. Contractors in India must act with the same caution and reserve in their dealings as others similarly situated all over the world; they must look to the solvency of the party with whom they deal. If, for reasons best known to themselves, they depart from this wholesome practice, they do for their free accord run certain risks for the purpose of obtaining certain objects, their chances are fully balanced, and they must be prepared to stand the consequences."

The Lieutenant-Governor of Bengal desired, as one of the Select Committee, to make a few observations as to the part he had taken in the discussion which had terminated in this Report, a document which he had signed, and in which, so far as it went, he entirely concurred. The origin of the Bill which it was now proposed to withdraw might be traced to the recorded remarks of the late Governor-General, Lord Canning, on the Report of the Bengal Indigo Commission in 1860. While concurring with the late Lieutenant-Governor in deprecating exceptional legislation, that is, such legislation as would confer on the Indigo Planters greater advantages than are given to other classes in making contracts, or in punishment of the breach of them, His Lordship suggested that, as the fraudulent breach of contracts by artificers or labourers, and of contracts for public works was already cognizable by law, and punishable with fine and imprisonment, the same law might be extended to contracts for the delivery of agricultural produce, not Indigo alone, but all agricultural produce, when the breach of contract is fraudulent, and when an advance has been accepted. Early in 1861, on Lord Canning's return to the Presidency, the question was carefully and anxiously discussed, and it was then resolved that a project of law for the punishment of fraudulent breach of agricultural contracts should be brought before the Council in its legislative capacity. It fell to his (Mr. Beadon's) lot to frame and bring in the Bill, and though from the first he was inclined to agree in what he understood to be Mr. Erskine's view, that the case could best be met by the addition of a Clause to the Penal Code, defining the offence of fraudulent breach of contract, and making it punishable in the ordinary way, yet, on the whole, it was deemed expedient to shape the measure, as nearly as might be, on the model of the Act already in the Statute Book for the punishment of breach of contract by workmen, an Act, it might be added, which all were agreed could not by any force or ingenuity of construction be made to reach Indigo Contracts. In bringing this Bill before the Legislative Council, he distinctly stated that he was by no means partial to the particular form in which it was drawn, and he proposed that it should be referred to a Select Committee to be considered and reported on, before publication, so that the Council might determine, in the first instance, the form in which it was most expedient that the Bill should appear. All that he asked the Council to do was (to quote the very words he made use of) "to affirm the principle that persons in the condition of labourers who freely received a *bond fide* advance of money, and in consideration thereof voluntarily contracted to cultivate or deliver produce, if they wilfully and without reasonable excuse failed to perform their engagements, and either persisted in their refusal, or would not pay such damages as the Magistrate might think reasonable, should be liable to punishment." It was important to remark that the Bill, among other things, provided that the contracts, the breach of which it was proposed to make penal, must be in writing, duly witnessed and stamped; that a copy of them must be deposited in the Magistrate's Office within a month after execution; and that no breach of contract should be punishable if committed after the lapse of a year from the date of contract. The second of these conditions was

admitted to be an imperfect substitute for registration, but it was hoped that, as a general measure, for the registration of deeds was then before the Council, this defect might be corrected before the Bill became law. The Council affirmed the principle of the Bill by a large majority, and the Bill was referred to a Select Committee, but before the Committee could present a Report, there came a Despatch from the Secretary of State condemning the measure, partly because it dealt with breaches of Civil contract in a Criminal way, and partly on account of its exceptional character. The Bill was accordingly abandoned. But Lord Canning's Government was so convinced of the necessity for providing, in some way or other, for the punishment of fraudulent breaches of contract, that, acting on a suggestion of the Chief Justice, it determined to make another attempt at legislation on the subject, an attempt such as would not be open to the objections brought against the former project, and would, it was hoped, meet with the approval of the Home Government. The result of this determination was Mr. Ritchie's Bill to which the present Report refers, a Bill which, as Mr. Maine had justly observed, was a compromise, and admitted to be such both by the author of the Bill and those who concurred with him in bringing it forward. The scope and object of Mr. Ritchie's Bill was to make punishable all breaches of contract committed in bad faith, provided a consideration of any kind had been received; and it empowered the Civil Courts, in an action for breach of contract, to commit the defendant to jail on a charge of fraud, there to maintain himself, or, if maintained by the Government, to be kept to hard labour. The Bill was, in fact, based to a certain extent on the bankruptcy law under which a dishonest debtor may be imprisoned without the intervention of the Criminal Courts. He (Mr. Beadon) supported the introduction of that Bill, not because he entirely agreed in it, but because he approved of the general principle on which it was based, namely, that fraudulent breaches of contract should somehow or other be made punishable: but he pointed out at the time, as other Members of the Council also did, the objections that might be taken to the very wide scope of the Bill, and he urged that it should be confined to contracts made in consideration of an advance of cash. On the same occasion he again expressed a preference for some alteration of the Penal Code whereby fraud of this description might be made directly punishable by a Magistrate. He was now free to admit that the Bill was reasonably open to most of the objections made to it by the Secretary of State. He quite agreed that it would not be expedient to punish criminally the breach of such contracts as those referred to in the 14th paragraph of the Despatch. He admitted that it would be wrong and dangerous to empower all the Civil Courts, or any great number of them, to pass Criminal sentence on the defendant in a Civil action for breach of contract, especially without putting him on his trial. And he did not doubt that the definition of "bad faith," which the comprehensive character of Mr. Ritchie's Bill had rendered necessary, would give rise to extreme difficulty in dealing practically with such cases. Further, he could heartily concur, in a general way, in the doubts of the Secretary of State as to whether legislative interference in commercial transactions, with a view to coerce one of

the parties to a contract, could be productive of good, but he was not the less firmly convinced that when once a contract had been freely made in consideration of a sum of money advanced for a specific purpose, and when it had been publicly acknowledged by both parties and registered at the time, the fraudulent breach of such a contract was as justly the subject of penal legislation as fraudulent breach of trust, or the crime defined in the Penal Code under the head of cheating. He was quite of opinion, however, that any attempt at further legislation in this country would be unwise, and he might say, undignified, until something could be done to remove the strongly expressed objections of the Home Government, and convince it that the true interests of India and its people absolutely demanded a law to punish fraud of this kind. As charged with the Executive Government of Bengal, it might become his duty to represent to the Governor-General in Council the necessity for such legislation, but as matters now stand, he did not consider that he was at liberty to take any other action in the matter. In offering these remarks he begged that they might be considered as applying only to the general question of criminally punishing fraudulent breaches of contract made in consideration of an advance, and not as in any way touching the special question of fraudulent breaches of contract by artificers and workmen. Contracts of this kind were provided for by a law which is already in force in the Presidency Towns, which has been extended partially to the Mofussil, and which may be further so extended at the discretion of the Executive Government.

The Hon'ble Mr. HARRINGTON said, upon the constitutional question which had been raised in the course of the debate he deemed it proper to make a few remarks. This seemed the more necessary in reference to what had fallen from his Honorable friend, Mr. Roberts, who considered that it was the duty of the Select Committee on Mr. Ritchie's Bill to have determined the effect of the Despatch lately received from the Secretary of State on the Bill. The right of this Council to pass any laws it pleased, except certain laws which were expressly excluded from its jurisdiction, admitted of no doubt. But it must be borne in mind that no law passed by this Council had any validity until it had received the assent of the Governor-General, who might reserve any law passed by the Council for the signification of Her Majesty's pleasure thereon, and that, moreover, any law passed by the Council, even though assented to by the Governor-General, would at once become null and void and of no effect in the event of Her Majesty disallowing it. It might be very true that the Indian Councils Act, to which his Honorable friend, Mr. Roberts, had alluded, did not expressly authorize the Secretary of State for India to make any objections, or to give any advice in respect to any Bill or project of law before the Council so long as the Bill or project of law was under the consideration of the Council, but he (Mr. Harrington) thought that most Honorable Members would agree with him that the right to object or advise in respect to any pending Bill, was inherent in the Secretary of State for India from the nature of his Office. The Secretary of State had the same opportunities of knowing what Bills were brought before the Council which were enjoyed by the public at large, and if, as in the present instance, he entertained such serious objections to any Bill before the Council as should,

in his opinion, prevent the Bill from passing into law, he (Mr. Harington) thought there could be no doubt as to his competency to state his objections to the Bill, and to advise that it should not be proceeded with. This was all that the Secretary of State had done on the present occasion. He had pointed out what appeared to him to be the objections to Mr. Ritchie's Bill and had expressed a hope that the Bill would be withdrawn. Assuming, then, that the course adopted by the Secretary of State was quite constitutional, on which point he, Mr. Harington, must repeat he thought there could be no doubt, it certainly did appear to him, and he believed most Honorable Members would be of the same opinion, that the Secretary of State had best consulted the public interest, and what was due to the Council, by communicating to the Council the objections which he entertained to Mr. Ritchie's Bill, and expressing the hope already mentioned, instead of waiting until the Bill had become law, and then advising Her Majesty to refuse her assent to it. Of course it was open to the Select Committee to have recommended that the Council should proceed with the Bill notwithstanding the objections taken to it by the Secretary of State, and there was nothing absolutely to prevent the Council from going on with the Bill if they pleased to do so, but he (Mr. Harington) did not think that this would be a wise or expedient course for them to pursue. He considered that the better course was that which the Select Committee had recommended, and he trusted that the Council would adopt the recommendation and allow the Bill to be withdrawn. It was not his intention on the present occasion to enter into the merits of Mr. Ritchie's Bill. When the Bill was introduced he had expressed himself as strongly opposed both to the principle of the Bill and to many of its details. He found most of the objections which he had taken to the Bill repeated in the Despatch from the Secretary of State. Other objections were taken to the Bill in that Despatch which, it must be admitted, were of considerable weight. He (Mr. Harington) would have divided the Council against the introduction of the Bill had there been any chance of his succeeding, but, finding that there was a majority against him, he had no alternative but to allow the Bill to go to a Select Committee. With regard to what had fallen from some Honorable Members in favor of the introduction of a Criminal breach of Contract Law he would observe that what they had now to consider was not whether any new law relating to breaches of contract, in the direction of the Bill introduced into the late Legislative Council by His Honor the Lieutenant-Governor of Bengal, or of Mr. Ritchie's Bill, or in some other direction, should be brought in, but whether they should or should not go on with Mr. Ritchie's Bill. He might, however, remark that the Honorable Members, to whom he had just referred, appeared to have overlooked the fact that the Legislature of this country had very recently concluded a complete revision of the criminal law of India, and had introduced, as the result of that revision, a very carefully prepared Penal Code. This Code had been more than a quarter of a century under consideration before it became law, and some of the ablest and most eminent men in India had taken part in its preparation. It must not be supposed that the framers did not carefully consider the subject of

breaches of contract, and how they should be dealt with. There was evidence indeed that the subject had been most fully considered by them. The framers of the Code had all the information regarding indigo and other contracts which was possessed by the Council, and the conclusion at which they arrived was expressed in one of their notes, in which they said that they agreed with the great body of Jurists in thinking that, in general, a mere breach of contract ought not to be an offence, but only to be the subject of a Civil action. They then went on to point out the cases in which an exception might, in their opinion, be properly allowed. This part of the Code might be regarded as falling within the category of particular legislation which his Honorable friend, Mr. Maine considered was, in certain circumstances, allowable; but the framers of the Indian Penal Code did not deem it right to include within their exceptions cases of the nature of those to which Mr. Ritchie's Bill was intended to apply. The Penal Code had not yet been twelve months in operation. No new circumstances had occurred, since its introduction, to shew that it required amendment in so far as it related to breaches of contract. It was not stated that there had been any failure of justice in consequence of the provisions relating to such breaches not being sufficiently large or stringent. The Code contained some very strict provisions against the fraudulent alienation of property by persons against whom decrees might be passed, and others colluding with them in fraud of creditors. These were calculated to be very useful in suits brought to recover damages for breaches of contract, and he thought that the penal provisions of the Code went in this respect quite far enough. Then they had lately given to the country a simple Code of Civil Procedure, which put aside all new technicalities, and aimed only at affording to parties in Civil suits speedy and substantial justice. He believed that this Code was giving very general satisfaction, and was working exceedingly well. He heard, not long ago, of a suit having been instituted in the High Court to recover damages for a breach of contract. The sum sought to be recovered was large. The suit was brought, heard, and decided, and execution of the decree obtained in full in less than a fortnight. He was told that, under the former system, this suit would have occupied several months. This would shew how great had been the reform effected by the introduction of the new Code of Civil Procedure. Then a large number of Small Cause Courts had been established, where suits for breaches of contract were most prevalent, and there could be no doubt that these Courts would materially contribute to the speedy and satisfactory determination of such cases. It seemed to him, therefore that, instead of proposing fresh legislation, and that too of a novel and exceptional character, they should give the laws which they now possessed a fair trial. He contended that the Penal Code and the new Code of Civil Procedure had not yet had a fair trial. It was too soon to judge of their effects. If, after a sufficient time had elapsed to admit of an opinion being formed on the subject—really practical, not merely theoretical—objections were found to exist in respect to any part of either Code, and an amendment appeared to be needed, by all means let the amendment be made. Some Honorable Members had alluded, in the course of the debate, to the laws which had been recently passed.

in England for the punishment of Trustees and Bankrupts who might be guilty of fraud. His Honor the Lieutenant-Governor of Bengal appeared to think that those laws gave power to the Bankruptcy Courts to punish persons proved before them to have been guilty of any fraudulent conduct, but he (Mr. Harington) apprehended that this was not the case; all that the Court could do was to commit the offender for trial before the Court of Session by which the trial was held with the aid of a jury. He had pointed this out to his Honorable friend, Mr. Cowie, in some correspondence which he had had with him regarding Mr. Ritchie's Bill. It was in that correspondence that the remark relating to juvenile Magistrates occurred to which Mr. Cowie had referred. If he (Mr. Harington) recollected rightly what he said was, not that some young Magistrates were not competent to the duties which they were now required to discharge, but that it would not be proper to devolve upon these comparatively young and inexperienced officers duties which at home were performed by old and experienced and trained Judges with the aid of a jury. He believed that he had added that a Sessions trial in every case of alleged breach of contract in this country would be most vexatious and harrassing to all concerned, and would be almost an impossibility. He could not conclude without expressing the pleasure with which he had listened to the letter which had been read to them by his Honorable friend, Mr. Ellis. His own experience entirely confirmed what had been stated by the writer of letter.

The Hon'ble RAJAH DEO NARIAN SINGH said that he had not received a copy of the Report, and could not therefore express any opinion on it. But he had already expressed his opinion on the Bill when it was introduced.

The Hon'ble Sir R. NAPIER said, that there was but little left for him to say on this question, but as a Member of the Government, which introduced the Contract Bill, he was unwilling to let the present Motion pass without remark. The admission which had fallen from his Honorable friend, Mr. Harington, regarding the state of the Civil Courts in the Mofussil within a recent period, afforded the best explanation of the grounds on which Mr. Bendon's Contract Bill was framed. The intention of that Bill was to provide for a class of contracts not within reach of the ordinary Civil Courts. We were informed of individuals being subject to breaches of contract by several thousand persons for amounts separately so small that even a successful prosecution in a Civil Court could only result in additional loss and expense, but so sufficient number of Civil Courts could possibly be provided to deal with such cases promptly. The immunity from the Civil Courts afforded by the great number of these cases, and the small amount involved in them, gave such temptation to, and facility for, breaches of contract, that it appeared necessary to deter persons from committing them by a penal law. It was objected to such a law that it would lead to great oppression through the inefficiency of the Magistrates, but we had seen the exercise of summary laws in the Non-Regulation Provinces without such results. Of course, Magistrates entrusted with summary powers should be subject to the strictest supervision, and gross neglect, or deficiency of judgment, should be very severely dealt with. Summary laws and prompt administration of justice were much more suited to the character of

the people of India than the protracted litigation of Civil Courts. It was notorious in the Upper Provinces how much more the people regard those administrators who give them prompt decisions, even though they may not be invariably faultless than those who give them the most perfect but long delayed and tardy justice. The object of Mr. Bendon's Bill was to meet the class of breaches of contract for which the ordinary Civil law could not afford a remedy, and in that view he (Sir R. Napier) cordially supported it. But the Bill was not permitted to become law, and, as stated by Mr. Bendon, the Bill now before the Council was framed by our lamented colleague, the late Mr. Ritchie, as a compromise. He (Sir R. Napier) could not say whether he should eventually have assented to that Bill or not. Although there were several points in the Bill to which he entertained objections he had consented to its being sent to a Select Committee because the Contract Bill was wanted, and he hoped that this one might undergo such alterations as would enable him to support it. Regarding the constitutional question which had been raised he might observe that it had pleased Her Majesty to invest the Secretary of State with authority over the Government of India, and it was surely better that he should intimate his objection to a measure sure, the principle of which he was entirely opposed to, rather than that he should watch in silence the progressive steps of a Bill, and allow it to be matured, with the determination to reverse it as soon as the Government of India should be fully committed to it. Under the present circumstances the decision of the Select Committee appeared to him the best that they could have arrived at.

His Excellency the PRESIDENT said, that he had listened with the greatest interest to the instructive discussion which had taken place, and especially to the important statements made by the Hon'ble Mr. Cowie and the Hon'ble Mr. Fitzwilliam. In his position it would be the height of indiscretion to state any opinion until he saw his way clear to some course of action that would be effective and useful. On the whole, he agreed with the Hon'ble Mr. Maine in his statement of general principles, but he could not entirely concur with Mr. Harington as to the hopelessness of discovering a remedy for the state of things which had been depicted that day. At the same time, when it was proposed to depart from that broad line of demarcation which separated Civil from Criminal enactments, they should have strong proof, not merely of the necessity of such a course, but also that they would be supported by public opinion in England. It might be better to deal with particular cases by special enactments, so that they might guard against deviating from the ordinary principles of jurisprudence beyond that which the actual necessity of the case demanded. In this course, however, they must guard against any legislation which might degenerate into class legislation. Whatever mistakes the Council might commit, he believed that they would never forget the broad general principle that every class of Her Majesty's subjects in India had equal claims to their sympathy and consideration. He trusted that the Council would appreciate his motives in refraining from any decided expression of opinion. The Lieutenant-Governor had alluded to Act XIII of 1859, the Artificers Act, and he (the Governor-

General) must say that it was a proper subject for consideration whether the operation of that Act might not be extended beyond its present limits. If other special legislation were attempted it should be tentatively and cautiously, and they should first see if the evils complained of could not be overcome by other means. He had such confidence in the good sense of his countrymen, that he was persuaded the European Community would agree that it was better, if existing laws could possibly achieve the object in view, first to try their operation; but if beyond those laws, other special legislation was necessary to meet any proved evils, it would be the duty of the Government to endeavour to discover what remedy could be applied. He could not pledge himself that a remedy should be discovered; but he could assuredly say that the Government would not fail from want of a sincere attempt to discover it.

The Hon'ble Mr. MAINE, in reference to what had fallen from Mr. Roberts, said, that the Despatch of the Secretary of State was not based upon any special provisions of the Councils Act, but upon the general power of superintendence over the Government of India entrusted to him by Parliament. Whatever power he had over the Governor-General in Council he could exercise over the Council as now assembled, and it was surely more convenient that he should state objections which he felt to be fatal to a Bill, prior to its passing, than that he should wait till the Bill had passed, and then disallow it.

His Excellency the President said, that there did not appear to be any question of constitutional right involved in this matter. The course of the Secretary of State, in reference to Bills before the Council, simply depended on questions of discretion. He had given no veto to the Bill, but had simply expressed his strong objection to it. Under the Rules of the Council, Bills were published prior to being passed, and it would not be a gratuitous proceeding in the Secretary of State, if, he entertained strong objections to any Bill, to keep them back from the knowledge of the Council, and then to disallow it.

The Hon'ble Mr. ROBERTS said that the question had not been raised by him, but was raised by the Report, from which it appeared that some doubt did exist as to the effect of the Despatch on the deliberations of the Council. When that Report came before him, he had referred to the Indian Councils Act, and so far as he could judge, it appeared that the Secretary of State had exercised a power that was not authorized.

The Motion was put and agreed to.

The Hon'ble Mr. MAINE then moved that the recommendation of the Committee be adopted.

The Hon'ble Mr. ROBERTS said that he should vote against the Motion.

The Motion was put and carried.

HIGH COURT BILL.

The Hon'ble Mr. MAINE moved for leave to bring in a Bill to continue in force Act XX of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court) till the 1st July 1863. He said that Act XX of 1862 had been passed at the Special Meeting of Council to which His Excellency had already referred. Its operation would cease on the 31st of December, and as the Government was not yet in possession of the opinions of the Judges as to the

provisions of any permanent Act that might be required for the High Court, it was necessary to continue this present temporary Act for a further period of six months. He proposed at the next Meeting of Council, to ask permission, to proceed under a suspension of the Rules, so that the Bill might be passed at once.

The Motion was put and agreed to.

MUNICIPAL ASSESSMENT BILL (STRAITS SETTLEMENT.)

The Hon'ble Mr. MAINE moved for leave to bring in a Bill to extend the term for which the Municipal Commissioners in the Straits Settlement are elected. He said that considerable inconvenience had been experienced in the Straits Settlement from the Municipal Commissioners being elected only for a period of one year. After some correspondence with the Government of India, the Governor of the Straits was requested to prepare and submit a Bill extending the term of Office to three years, and the Hon'ble the Recorder of Singapore having been good enough to prepare a Bill for the purpose, it had been forwarded to this Government, for submission to the Council.

The Motion was put and agreed to.

MARRIAGE BILL.

The Hon'ble Mr. HARRINGTON introduced the Bill to provide for the solemnization of Marriages in India of persons professing the Christian religion, and moved that it be referred to a Select Committee. He said that leave to introduce this Bill was given by the Council in the month of February last. Their late Hon'ble Colleague, Mr. Ritchie, on asking for leave to bring in the Bill, entered into a full explanation of the objects and reasons of the Bill. His remarks had been incorporated in the Statement of Objects and Reasons which had been printed and circulated and it was unnecessary that he (Mr. Harrington) should occupy the time of the Council by recapitulating them now. But a very important addition had been made to the Bill as proposed to be introduced by Mr. Ritchie. This addition, which was contained in Part IV of the Bill as now framed, was intended to meet the cases of the numerous classes of Native Christians who were scattered throughout the Country. He thought there could be no doubt that the previous provisions of the Bill were altogether unsuited to large numbers of these persons, and that some special legislation was necessary in their behalf. It seemed to be generally admitted, that it was impossible for the persons to whom he was referring to comply with the formalities in respect to marriage contained in the existing law, and it was not pretended that they did comply with them. The consequence had been much irregularity in the solemnization of the marriages of these persons, and there were great doubts as to the legality of some of their marriages. The present Bill would give validity to all marriages, however celebrated, up to the date of the passing of the Bill, and, for the future, it was thought that the part of the Bill to which he was referring would afford to all classes of Native Christians, who might choose to avail themselves of the same, a simple, convenient and inexpensive mode of solemnizing their marriages, and of establishing their marriages when proof might be required either in respect to the succession to property or otherwise. He (Mr. Harrington) could not conceal from himself that the part which had

been added to the Bill, as prepared by Mr. Ritchie, was not free from difficulty, and some modification might be necessary before the Bill became law. There was no intention of hurrying on the Bill. The Bill would be published for the usual time, and ample opportunities would thus be afforded to the local Governments, and to all persons interested in the Bill, of making themselves acquainted with its provisions, and of offering any remarks or suggestions that they might think proper.

The Hon'ble Mr. ERSKINE expressed his gratification at hearing that it was not intended to press on this measure without affording full time for expressions of opinion. The subject was one that well deserved the consideration of the Legislature; but it involved many questions of considerable difficulty, and it was desirable that it should be brought distinctly to the notice of the local Governments.

The Hon'ble RAJAK DINKAR RAO said that the objections he had against passing this Bill, and his views respecting it, were as follows:—Section XLIII provides that it should be ascertained whether the persons intending to be married do not stand to each other within the prohibited degrees of consanguinity, and whether they have, or have not, a wife or husband, as the case may be, still living. It was necessary to know these points, and also whether both the parties profess Christianity. For it was often the case that persons on account of famine or quarrels left their homes. Deceit, force, or allurement were also sometimes the means of separating individuals from their relations. All this should be ascertained from the relations of the parties; the statement of the persons intended to be married should not be deemed sufficient proof. The enquiry could not, he (the Rajah) thought, be satisfactorily made by a person in Holy Orders, or by a person licensed to grant Certificates of Marriage between Native Christians. This task should be entrusted to the local Civil Authority, who should proceed as in cases of kidnapping, abduction, &c. No harm would be done if some delay in the performance of such marriage occurred in making these enquiries, and excitement, if any existed, would also be removed. It was possible that such persons, after the excitement was over, might repent and wish to go back to their relations and request their forgiveness and protection. The natural affection of the relations, even if their religion realored it impossible to re-admit them into caste, might induce them to provide for their maintenance. It was mentioned in Section XV that the father, mother, or guardian of any party has power to make objection to the marriage. But in case these persons were at a distance, how were they to hear of the intention and come forward within fourteen days, the time allowed by this Bill? The period allowed for enquiry should be allowed to the relations for the purpose mentioned. Care should be taken that no one who, by being a relation, or from his religious feelings, should object to the marriage, although he was not entitled by this law so to object, should be punished. Mention was made in Section XLIII about the age of the parties, but it was necessary to know whether they were free according to their custom. He thought it would be well that this Bill should be referred to the local Governments in order to ascertain the objections of the Native

community under their respective Governments. It would be said that, on the publication of the Bill in the *Gazette*, any one might raise objections against it. This course might be better, but it seemed to be seldom adopted.

The Hon'ble Mr. HARRINGTON said that the suggestion made by his Hon'ble Friend, Rajadinkar Rao, that, in addition to the usual publication of the Bill, it might be advisable to call the special attention of the local Governments to the Bill seemed worthy of consideration, and he thought he might promise his Hon'ble Friend that his suggestion would be adopted. The remarks made by his Hon'ble Friend on some of the Sections of the Bill would be fully considered in Committee.

ABKAREE BILL.

The Hon'ble Mr. HARRINGTON introduced the Bill to amend the Law relating to the Abkaree Revenue of Fort William in Bengal, and Act XXIII of 1860 (to amend the said Act XXI of 1856), and moved that it be referred to a Select Committee. He said, in introducing this Bill, he deemed it right to draw attention to the fact that the Bill as framed would apply only to the Presidency of Fort William in Bengal. He had intended to propose that the provisions of the Bill should be made of general application, but after consulting his Hon'ble Friends, Mr. Erskine and Mr. Ellis, he had come to the conclusion that it would be better to leave the Governments of Madras and Bombay, which had their own Abkaree laws, to legislate for themselves, having first obtained the sanction of the Governor-General to their so doing. The previous sanction of the Governor-General would be necessary under the Indian Councils Act in reference to the character of the legislation. Some addition to the Bill would probably be necessary to admit of the extension of its provisions to the Punjab and other Non-Regulation Provinces, but this might be considered in Committee.

The LIEUTENANT-GOVERNOR of Bengal enquired if the Bill related to Bengal alone, and if in that case it might not be left to the Bengal Council.

The Hon'ble Mr. HARRINGTON said that the Bill was introduced on the recommendation of the Government of Bengal, but it included the whole of the Bengal Presidency, both Bengal and the North-Western Provinces.

The Motion was put and agreed to.

The following Select Committees were named:—

On the Bill to provide for the solemnization of Marriages in India of persons professing the Christian Religion—the Hon'ble Messrs. Harrington, Erskine, Ellis, and Roberts.

On the Bill to amend Act XXI of 1856 (to consolidate and amend the Law relating to the Abkaree Revenue of Fort William in Bengal) and Act XXIII of 1860 (to amend the said Act XXI of 1856)—the Hon'ble Messrs. Harrington, Erskine, Ellis, and Roberts.

The Council adjourned.

M. WYLIE,

Depy. Secy. to the Govt. of India,

Rome Department.

CALCUTTA,

The 17th December 1862.



SUPPLEMENT TO The Calcutta Gazette.

SATURDAY, DECEMBER 27, 1862.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE will henceforward be published, weekly or twice a week, according to circumstances, containing such Official Papers and Information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

Non-Subscribers to the GAZETTE may receive the SUPPLEMENT separately on a payment of six Rupees per annum if delivered in Calcutta, or twelve Rupees if sent by Post.

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Government of India.

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., C. 67.

The Council met at Government House on Wednesday, the 24th December 1862.

PRESENT:

His Excellency the Viceroy and Governor-General of India, *presiding*.

His Honor the Lieutenant-Governor of Bengal.

Major-General the Hon'ble Sir R. Napier, K. C. B.

The Hon'ble H. B. Harington.

The Hon'ble H. Sumner Maine.

The Hon'ble C. J. Erskine.

The Hon'ble W. S. Fitzwilliam.

The Hon'ble D. Cowie.

The Hon'ble Rajah Deo Narain Singh Bahadoor.

The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.

The Hon'ble R. S. Ellis, C. B.

The Hon'ble A. A. Roberts, C. B.

DIVORCE COURT BILL.

The Hon'ble Mr. MAINE moved for leave to introduce a Bill for conferring upon the High Courts of Judicature the jurisdiction and powers vested in the Court for Divorce and Matrimonial Causes in England. He said that the object of the Bill was to give effect to the policy embodied in the High Court's Act passed in 1861, and to the Letters Patent issued by Her Majesty for constituting the High Courts. The object of the

High Court's Act seemed to have been not so much to create new branches of jurisdiction as to constitute and re-distribute the power which already existed. The 9th Clause gave power to Her Majesty to confer on the High Courts such matrimonial jurisdiction as she thought fit; but, following the principle he had mentioned, Her Majesty did not attempt to confer on the High Court such a jurisdiction as was exercised by the Divorce Court in England. The Secretary of State therefore requested the Governor-General to introduce a measure conferring a jurisdiction on the High Courts here similar to that exercised by the Divorce Court sitting in London. The course pursued was probably the only one which could have been followed under the circumstances, but it had given rise to a peculiar difficulty, which had been the cause of some delay in introducing this Bill. The matter was so delicate and important that, even before the text of the Bill was in the hands of the Members, he would state what that difficulty was. He need not say that before such a Bill as this was brought in, deeply concerning the High Court, it was submitted to the Judges of that tribunal. The Government were in possession of their answers, and two of the Judges of the High Court of Bengal had given specific opinions on the point to which he had referred. They called attention to its being doubtful whether, if the High Court, acting under the authority conferred by the Council, decreed the dissolution of marriage between persons belonging to a certain class of Her Majesty's subjects in India, there was anything in the present state of the law which would compel the English Courts to recognize those decrees and to view the marriages put an end to as legally dissolved. One learned Judge (Mr. Justice Norman) was, on the whole, of opinion that a decree of the High Court dissolving a marriage would now be recognized in England. The Chief Justice, however,

considered it more than doubtful whether such decrees would be allowed by the English Courts to have this consequence, and though no concurrence of his (Mr. Maine's) could add weight to the opinion of Sir Barnes Peacock on this point, he must say that, ever since he had tried to address himself to this subject, he had been struck with the same difficulty. He would attempt to explain what this difficulty was. There was no doubt that the rule of a private international law, the rule received among communities under what was called the comity of nations, was that every man's status, his personal condition, was to be determined by the law of his domicile, of the country in which he was domiciled; so that a man who is a major or minor, or bachelor or divorced man, in the place where he had acquired a domicile, was a major or minor, and so forth, in every other country. Of course the highest authority by which a man's status could be declared in any country was the authority of a Court of competent jurisdiction, and hence it followed that all tribunals were bound by the comity of nations to respect and recognize the decrees of divorce passed by foreign Courts. Now, then, as the Courts of every dependency of the British Crown, which had a complete and independent judicial system, are foreign Courts relatively to the English tribunals, it would seem that a decree of the High Court dissolving a marriage between domiciled Christians under the measure now to be introduced ought to be deemed effectual by every English tribunal, and that such a decree would be regarded as valid in respect of one class of Indian Christians there seemed to be no doubt. When persons had been married in India, and the marriage had been dissolved by the High Court, no difficulty existed, and the dissolution would be held to be complete even in England. But when persons had been married in England, and their marriage had been dissolved in India, it was far from certain that English tribunals would consider them at liberty to re-marry. The doubt had been caused by a judicial decision which had become memorable in that branch of jurisprudence, and which was known as *the King against Lolly*, or Lolly's case. Lolly, in 1812, was indicted for bigamy, and he pleaded in defence that his first marriage was dissolved by a Scotch decree. All the twelve English Judges held that such a dissolution was of no validity in England, and Lolly, who had been convicted, underwent the punishment to which he had been sentenced. The decision was, as he had heard, consonant with the prevalent feeling of the time, for much anxiety had been caused by the apparent facility with which divorces were obtained from the Consistorial Branch of the Scottish Court of Session, but at the same time it was in flagrant discordance with the rule of private international law. Hence, a long succession of the best legal authorities had expressed dissatisfaction with Lolly's case, or had attempted to explain it away. Some, with whom Mr. Justice Norman was disposed to agree, had pointed out that the decision turned partly on the circumstance that marriages at common law in 1812 were incapable of dissolution, so that the law being now otherwise the case had lost its authority. Others, including the Judge of greatest experience in matrimonial law, Dr. Lushington, had observed that the Judges, in 1812, did not seem to have paid attention to the question of

domicile. But on the whole, he ventured to think that the better opinion was Sir Barnes Peacock's, who considered that, so long as Lolly's case was not formally over-ruled, it was impossible to say that persons married in England and divorced in India would be regarded in England as capable of contracting a legitimate re-marriage. This case, too, as the Council would see, was one in which doubt is almost as intolerable as unfavorable certainty; for doubts as to the validity of divorces were doubts as to the lawfulness of re-marriage. Doubts as to the lawfulness of re-marriage were doubts as to the legitimacy of children; and doubts as to the legitimacy of children were doubts as to the right of inheritances; so that these difficulties, if not set at rest, might lie in ambush for the third and fourth generation, and fifty or sixty years hence the right to an estate might be impeached on account of an unsettled question respecting an Indian divorce. The question, therefore, was what course ought they to adopt in legislating on these subjects. There could be no doubt that as they were competent to legislate for a large class of Christian subjects, those who had been married in India, they should not delay the relief they could give to such of them as were unfortunate enough to be compelled to resort to the new branch of the High Court. Meantime, the Governor-General in Council had requested the Secretary of State to lay the difficulty before the Law Officers of the Crown. If they, considering the criticisms which had been directed against Lolly's case by so many learned persons, were of opinion that it was originally decided erroneously, there would be reasonable security for persons married in England who re-marry after a decree of divorce by the High Court. If they thought that Lolly's case still stood in the way, the Secretary of State would doubtless think fit to apply to Parliament for a remedy, which might take either of two forms suggested by the Judges of the High Court. Indian divorcees might be rendered simply and at once as binding in England as divorce by the English Divorce Court, or they might be registered there, and if not appealed from within a certain period they might acquire the validity of an English matrimonial decree.

The Motion was put and agreed to.

EMIGRATION TO SAINT CROIX.

The Hon'ble MR. MAINE moved for leave to introduce a Bill relating to emigration to the Danish Colony of St. Croix, and said that, after a rather protracted negotiation between the Danish and Her Majesty's Governments, it had been resolved to pass a measure giving effect to emigration to that Colony. The Bill had been framed exactly in the same way as the former Bills, and as it was a matter of comparatively small importance he would not take up the time of the Council with any further remarks.

The Motion was put and agreed to.

ARTICLES OF WAR.

The Hon'ble MR. MAINE introduced the Bill to amend Act XXIX of 1861 (to consolidate and amend the Articles of War for the government of the Native Officers and Soldiers in Her Majesty's Indian Army), and moved that it be referred to a Select Committee with instructions to report in four weeks. He said that the only Clause in the amended Bill which was of great importance was that which conferred certain powers on Officers belonging to small

Detachments situated beyond the Seas. The exact nature of all the amendments would be seen in paper marked No. 1, appended to the old Articles side by side.

The Motion was put and agreed to.

ACT XX OF 1862 CONTINUANCE BILL.

The Hon'ble MR. MAINE also introduced the Bill to continue in force Act XX of 1862 (to provide for the levy of Fees and Stamp duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court) till the 1st January 1864. The object of the Bill (he said) was to supply an omission in the original Bill. By an accident, which very frequently occurred in the preparation of enactments of that kind, provision had not been made to enable the Court to fix the time within which an application for a review of judgment should be made. Provision had been made for Appeals, and this Bill would put applications for

reviews on the same ground. He applied to his Excellency the President to suspend the Rules of Business in order that the Bill might be passed at once.

His Excellency the PRESIDENT declared the Rules suspended.

The Motion, that the Bill be passed, was then put and agreed to.

The following Select Committee was named:—

On the Bill to amend Act XXIX of 1861 (to consolidate and amend the Articles of War for the government of the Native Officers and Soldiers in Her Majesty's Indian Army)—Messrs. Erskine, Ellis, and Roberts.

The Council adjourned.

M. WYLIE,

*Depy. Secy. to the Govt. of India,
Home Department.*

CALCUTTA,
The 24th December 1862. }



SUPPLEMENT TO The Calcutta Gazette.

WEDNESDAY, DECEMBER 31, 1862.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE will henceforward be published, weekly or twice a week, according to circumstances, containing such Official Papers and Information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

Non-Subscribers to the GAZETTE may receive the SUPPLEMENT separately on a payment of six Rupees per annum if delivered in Calcutta, or twelve Rupees if sent by Post.

No Official Orders or Notifications, the publication of which in the GAZETTE is required by Law, or which it has been customary to publish in the GAZETTE, will be included in the SUPPLEMENT. For such Orders and Notifications the body of the GAZETTE must be looked to as heretofore.

Government, North-Western Provinces.

Yield of the present Cotton Crop.

From G. H. M. BATTEN, Esq., Secretary to the Sudder Board of Revenue, North-Western Provinces, to J. D. SANDFORD, Esq., B. A., Officiating Secretary to the Government of the North-Western Provinces, (dated Allahabad, the 19th December 1862.)

As promised in paragraph 15 of my address No. 771, dated the 18th October last, I have now the honor, by direction of the Sudder Board of Revenue, North-Western Provinces, to submit a Report upon the yield of the present Cotton Crop.

2. In the Districts north of Meerut it was about one-fourth below the average. Farther down the crop was better, the loss being about a tenth, or at most an eighth; this applies to Meerut, Boolundshuhur, and Allygurh. Throughout the Lower Doab the outturn has been fair, in some places even above the average.

3. Upon the whole the expectations expressed in paragraph 14 of the Board's last address have been fully realized in respect of the Districts lying to the north of the Jumna; and the increased area then reported as having been sown with Cotton may, in respect of that tract of country, be held to indicate the degree in which the supply for the present year has increased. The quality, however, will probably be found inferior, since, as before explained, the first pickings, which are the finest, were, to a great extent, lost.

4. The Board regret that they have a much more unfavorable report to give of the produce in the Districts south of the Jumna. In Muttra and Agra, which contain an area under Cotton of nearly 200,000 acres, the failure has been lamentably great. Mr. H. D. Robertson states that, in the former District, "not half the usual quantity

per acre has been secured, and that of a very inferior quality."

5. Similarly in Jaloun, Major Ternan estimates the yield per acre this year to be only 11 or 12 seers instead of 30. In Jhansie, where the crop is reported somewhat better, the loss is supposed to be about 25 per cent.; further east again in the direction of Banda the outturn is probably not much above fifty per cent. of the average year.

6. The Board fear from the Reports they have received that in Gwalior and the Independent States of Bundelkhand the crop has likewise been much below the average.

7. As regards price, the market rates per maund have varied during the last two months from 14 Rupees in the western Districts to above 21 in the eastern. The following Table will shew how great the fluctuations have been in the chief markets:—

Rate per Maund.

	31st October.	30th November.
Meerut ...	14 8 9	13 4 6
Allygurh ...	14 8 0	14 12 0
Agra ...	18 0 0	15 0 0
Furruckabad ...	21 0 0	14 8 0
Mirzapore ...	16 0 0	16 0 0
Ghazeeepore ...	21 4 0	21 4 0

8. The exportation of Cotton from these Provinces continues unabated; every effort is strained by the speculators to carry the present crops to Calcutta at the earliest moment. Carriage of every description is pressed into the traffic; the Roads are thronged by carts laden with Cotton destined for Calcutta or some of the intermediate Stations. To such an extent, indeed, has Capital

been invested, and carriage engaged in the trade, that customary branches of merchandise have been neglected and the transport of Salt eastward interfered with. The Salt Revenue has lately received an unexpected check not unreasonably attributed to this cause.

9. The Cotton trade is also beginning to take unexpected routes. The Senior Member was startled by meeting on the Grand Trunk Road a line of carts laden with perhaps 500 maunds of Cotton moving *westwards* from Allygurh, and bound for Umritsur. It appears that this is the first occasion on which Cotton has been consigned from these Provinces to the Punjab for many years, and it is now carried by that route with the view of eventual exportation from Kurrachee. From one Mart, Hatrass, it has been reported that about 12,000 maunds have already been dispatched to Puttiala and Umritsur as against 14,000 for Mirzapore. The route must, therefore, have been found a promising one.

10. Mr. Muir was also surprised by meeting on the Grand Trunk Road a long string of Camels, each bearing two bales, or six maunds of Cotton, and bound for Indore. Agents from Bombay have been busy in Agra and the adjoining Districts making Cotton investments, and a considerable amount is believed to be now taken in that direction, attracted no doubt by that portion of the Railway already constructed from Bombay towards Central India.

11. The following rates of carriage from Hatrass will show the comparative cost of the various routes:—

	Rs.	As.	P.	
Hatrass to Umritsur	1	0	0	per Maund.
" " Puttiala	0	13	4	" "
" " Mirzapore	0	10	8	" "
" " Calcutta	2	5	4	" "

But the pressure of the present demand, and the great competition for carriage, are no doubt raising the cost daily above these rates.

12. It is satisfactory to find that the dispatches from Agra by the Railway are on the increase. Since September the figures are as follows:—

	Maunds.
October	20,950
November	45,433
December, 1st week	8,439
	<hr/> 74,822 <hr/>

To which if we add the quantity reported in my last letter we have 1,12,500 maunds (above 80,000 cwt.) in about half a year.

This is independent of the large and constant traffic by country boats and carts.

13. During the last two months about 30,000 maunds are reported by Captain Bird to have been shipped for Calcutta by Steamer, and the remainder by country boats. But the demand for freight is at present so great that carts are now engaged to go all the way to Calcutta.

14. Palmer and Company have commenced working their Screws at Cawnpore, and are reported to be preparing others at Agra; but Captain Bird states the number of screwed bales that have yet arrived here to be small. The increased value of Cotton has, however, begun to shew itself in the more secure and careful manner in which the bales are packed and covered.

15. Captain Bird's Screws at the Jumna Ghât here will be in working order in a few weeks.

16. A copy of this address has been forwarded in continuation to the Chamber of Commerce.

(86)